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HESSE AND WAMPLER NOMINATIONS

HEARING

BEFORE THE

COMMITTEE ON ENERGY AND NATURAL RESOURCES UNITED STATES SENATE

NINETY-NINTH CONGRESS

SECOND SESSION

ON THE

NOMINATIONS OF MARTHA O. HESSE TO BE COMMISSIONER, FEDERAL ENERGY REGULATORY COMMISSION; AND J. ALLEN WAMPLER TO BE ASSISTANT SECRETARY FOR FOSSIL ENERGY, DEPARTMENT OF ENERGY

SEPTEMBER 9, 1986

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HESSE AND WAMPLER NOMINATIONS

TUESDAY, SEPTEMBER 9, 1986

U.S. SENATE,
COMMITTEE ON ENERGY AND NATURAL RESOURCES,
Washington, DC.

The committee met, pursuant to notice, at 10:15 a.m., in room SD–366, Dirksen Senate Office Building, Hon. Chic Hecht presiding.

Present: Senators Hecht, Hatfield, Weicker, Ford, and Bradley.

Also present: E. David Doane, senior counsel; Richard D. Grundy, senior professional staff member; and D. Michael Harvey, chief counsel for the minority.

OPENING STATEMENT OF HON. JAMES A. McCLURE, A U. S. SENATOR FROM THE STATE OF IDAHO, AS PRESENTED BY SENATOR CHIC HECHT

Senator HECHT. Good morning. I will call the hearing to order. The nomination hearing for Martha O. Hesse, and J. Allen Wampler.

I have Senator McClure's statement, which staff has asked me to read.

Good morning. At today's hearing, we will consider two Presidential nominations. Martha O. Hesse, to be a member of the Federal Energy Regulatory Commission, and J. Allen Wampler to be Assistant Secretary of Energy for Fossil Energy.

Our first witness is Ms. Hesse. Upon her confirmation, she will be designated by the President to serve as Chairman of the Commission. As Chairman, Ms. Hesse would have responsibilities extending beyond those of the other Commissioners. She would be responsible for the general supervision of Commission personnel, as well as other aspects of the Commission's administrative operations.

The Federal Energy Regulatory Commission, through its predecessor, the Federal Power Commission, dates back to 1920, when the Federal Power Act was enacted. Thus, the Commission is one of the oldest of the independent regulatory agencies.

In 1977, the Congress passed the Department of Energy Reorganization Act, which provided that the Commission be placed within the Department of Energy. However, the Commission has retained its regulatory independence.

It has very broad and highly complex regulatory responsibilities, including setting wholesale rates for natural gas and electric energy, assessing the environmental impacts of hydroelectric projects and other energy facilities under its jurisdiction, and insuring the reliability of our Nation's electric energy supplies.

Since 1982, Ms. Hesse has served as Assistant Secretary for Management and Administration at the Department of Energy. Before joining DOE, she was Executive Director of the President's Task Force on Management Reform. From February 1981 until her White House assignment, she was Associate Deputy Secretary of Commerce.

Ms. Hesse's government service was preceded by 15 years of management experience in the private sector. She is a co-founder of a successful data processing consulting company in Chicago, and served as its Director and Chief Operating Officer from 1969 to 1980.

Ms. Hesse attended the University of Iowa and Northwestern University, and she received her MBA from the University of Chicago.

I will now introduce my esteemed colleague, Senator Hatfield, who will make the introduction.

STATEMENT OF HON. MARK O. HATFIELD, A U.S. SENATOR FROM THE STATE OF OREGON

Senator HATFIELD. Mr. Chairman, Senator Ford, it is a great deal of pleasure that I have this morning to introduce to the committee an old friend of the committee, friend because Martha Hesse has appeared before this committee on numerous occasions.

She has already been confirmed by this committee on a previous occasion. She now comes before this committee as the nominee of President Reagan to be a member of the Federal Energy Regulatory Commission, with the expectation that upon her confirmation she will be named as Chairman of that important regulatory agency.

Mr. Chairman, I have had the opportunity to get acquainted with Ms. Hesse during her appearances, not only before this committee, but more frequently before the Appropriations Committee. She comes before the committee in her present role to discuss the budget in relation to management and administration of the Department of Energy.

She is in charge, actually, of about 135,000 employees and has a budget under her direct responsibility of $15 billion.

That is a very significant assignment that she has been performing and I must say to you that in every instance in her appearance before our Appropriations Subcommittee, which I happen to also chair on the Appropriations Committee. She has been a witness who has completed her homework. She has been a witness who has been very forthright in response to the questions posed by the committee members. She has demonstrated integrity. She has demonstrated competence. She has demonstrated forthrightness.

Not only do I use these adjectives to describe her because of my own personal knowledge of the activities that she has spearheaded in her agency to improve management, to improve the processing of the duties of that agency, but I have seen the record as it has related to budgetary savings as a result of her management reform programs.

Mr. Chairman, I think one of the greatest assets that she brings to this new position is that she is not a lawyer. Now, some people have indicated that we should have had a lawyer. I say that this is an asset because I believe that this agency deserves the kind of leadership that she is capable of providing in enhancing and improving its administrative procedures, the administrative, less glamorous activities of that agency.

She will bring to bear, I am sure, a continuing leadership on the staff improvement that has incurred in this agency, of staff productivity and of expediting procedure.

I think there is nothing more frustrating to a Member of Congress, nothing more frustrating to a constituent of any agency than to feel that the agency is either lethargic or indifferent or incompetent to make decisions.

We have too much of that in Government today, where agencies have requests or permits or whatever other responsibility that agency is performing lanquishing in the bureaucracy of the agency, without decision.

I believe that Martha Hesse will be noted in her leadership role here in this new appointment, as she has been in her current assignment as one who makes decisions, who has the competency, the intelligence, the ability to make decisions and has the desire to make them and has the ability to make them.

I believe the committee has her resume of her academic background, which has been alluded to briefly by the chairman this morning. I will not go into the details of that. That will be a part of the record, I assume, but I want to say that I enthusiastically and unqualifiedly endorse for confirmation Martha Hesse, as the President's nominee to the Federal Energy Regulatory Commission, and look forward to working with her in this most important vital agency of our Federal Government.

Senator HECHT. I thank my distinguished colleague, and being a businessman for 35 years, I wholeheartedly concur in your remarks about not being a lawyer.

Senator Ford, do you have an opening statement?

Senator FORD. I am not a lawyer. [General laughter.]

Senator HECHT. I think I see a trend in the right direction, finally.

Senator HATFIELD. Mr. Chairman, before I made that statement, I observed very carefully the members of the committee present this morning. So I felt comfortable in making it.

Senator HECHT. Senator Weicker, do you have an opening statement?

Senator WEICKER. I do not, Mr. Chairman. Thank you.

Senator HECHT. Ms. Hesse, the rules of the committee, which apply to all nominees require that they be sworn in in connection with their testimony.

Please rise and raise your right hand.

[Whereupon, Martha O. Hesse was duly sworn by Senator Hecht.]

Senator HECHT. Thank you. Please be seated.

Before you begin your statement, there are four questions addressed to witnesses before this committee who are nominated for positions. I would like to ask these questions of you.

Will you be available to appear before this committee and other Congressional Committees to represent Commission positions and respond to issues of concern to the Congress?

Ms. HESSE. I will be available.

Senator HECHT. Your informational statement has been submitted to the committee. However, it is required that this statement be made public unless the committee decides that special circumstances justify an exception.

Do you have any objection to the publication of your informational statement?

Ms. HESSE. I have no objections.

Senator HECHT. Are you aware of any personal holdings, investments or interests that could constitute a conflict of interest or create the appearance of such a conflict should you be confirmed

and assume the office to which you have been nominated by the President?

Ms. HESSE. I have no such holdings.

Senator HECHT. Are you involved, or do you have any assets held in a blind trust?

Ms. HESSE. I do not.

Senator HECHT. With that, you may now proceed with your opening statement.

STATEMENT OF MARTHA O. HESSE, NOMINEE TO BE COMMISSIONER, FEDERAL ENERGY REGULATORY COMMISSION

Ms. HESSE. Thank you, Mr. Chairman. I would like to submit for the record my full opening statement and proceed with a summary.

Senator HECHT. Thank you, very much. It will be made a part of the record.

Ms. HESSE. Mr. Chairman, and members of the committee, it is a great honor to appear before you as President Reagan's nominee for the unexpired portion of former Chairman O'Connor's term on the Federal Energy Regulatory Commission.

I would like to thank you, Mr. Chairman, the other members of the committee and the committee staff for the assistance and courtesies provided to me since the nomination. And of course, I would like to thank President Reagan for nominating me, and Secretary Herrington for his support during this process.

Since copies of my committee information statement have been made available to you, I will only briefly highlight my professional experience.

My career consists of over 20 years of management experience. In the private sector, I served as director and chief operating officer of a professional services company, which I cofounded. I held key management positions and directed the company's business and financial planning and operations. Under my direction, the company grew to a multimillion dollar a year operation without any outside financing.

I have been privileged to devote the last 6 years of my career to public service. Since 1982, I have served as the Assistant Secretary for Management and Administration of the Department of Energy. As the Department's principal business officer, as Senator Hatfield mentioned, I have direct or oversight responsibility for all Department operations, including an annual cash flow of $22 billion, and 135,000 Government and contractor employees.

In my capacity as Assistant Secretary at the Department of Energy, I have had wide exposure to the various segments and problems of the energy community and have developed a keen appreciation for the critical role that energy plays in our Nation's security.

The decisions of the Federal Energy Regulatory Commission have long-term implications for our Nation's energy security. Although the short-term outlook for energy supplies in this country appears good, consideration must be given to long-term energy supply security. Particularly, the long-term reliability of the national electric grid and the generating capacity available to supply that grid must be a concern. In addition, the Commission must con-

sider the impact of falling oil and gas prices on the future adequacy of natural gas supply. We must take care to avoid a recurrence of the energy shortages of the 1970's.

Although most people in the United States may have never heard of the Federal Energy Regulatory Commission, there is little doubt that the Commission's actions directly or indirectly touch their lives. With few, if any, exceptions, Americans consume and depend on energy in their homes, their workplaces and their communities. Even though the Commission shares regulatory responsibility with state and local governments, it plays a major role, for example, as regulator of wholesale energy sales and interstate transmission.

Last year, nearly 74 quadrillion Btu's of primary energy were consumed in this country. That is the equivalent of about 35 million barrels of oil a day. Of that energy, well over one-third came under the Commission's jurisdiction at some point. I think these figures indicates the significance of the role which the Commission plays in this Nation's energy future.

As the members of this committee are well aware, Congress establishes the jurisdiction of the Commission. Congress can alter that jurisdiction. As the chairman of the Commission, I would consider it my duty to observe to the utmost of my ability those jurisdictional responsibilities and limitations set by Congress. Should Congress see fit to alter the bounds of FERC's jurisdiction, I would strictly implement the required regulatory framework.

Congress has delineated four major areas for which the Commission has responsibility. As chairman, I would look very carefully at the balance of Commission resources expended among these four areas to insure that the Commission's statutory obligations in each are being carried out with equal diligence.

Beyond this, it is not possible for me at this time to speculate on the policy directions the Commission might follow in these regulated areas in the future. Let me instead focus the remainder of my remarks on administrative matters which I believe deserve priority.

There are similarities among all organizations. Whether the focus of the organization is the generation of profit or the implementation of a statutory mandate, the objective ought to be maximum quality product for least-cost resource investment, both in human and dollar terms. In that regard, I intend to look very carefully at the organizational, structure and management systems of FERC with an eye toward moving the Commission's caseload with maximum efficiency.

Second, I would like to create an environment in which informed policy formulation can take place. In recent months, the Commission has demonstrated the ability to use generic rulemakings as a vehicle for making major changes in Commission policy. The existence of a generic policy should make case-by-case decisionmaking more efficient. In that regard, I would like to explore further use of the rulemaking process to establish such policies. I do recognize that there are vast differences between the parties of interest before the Commission. Clearly no generic policy can meet all special needs of individual parties, and those specific needs should

have a forum. The Commission must wrestle with these diversities within the context of specific dockets.

A generic policy strategy has the added advantage of sending clear, consistent signals to the industry which should encourage more efficient use of funds. Especially within the context of current energy markets, the time value of money ought to be emphasized and constantly considered. I favor a good and well-reasoned decision today rather than a perfect decision in the distant future. To further insure clear and consistent signals, the Commission must be prepared to implement its policies firmly and in a timely way.

Finally, the Commission must bring innovative management to its traditional wholesale electricity rate jurisdiction, as the electric utility industry begins facing a number of important structural issues, such as competition from cogeneration, retroactive challenges to the prudence of decisions to build new powerplants, access to transmission capacity, and impacts of large interstate utility holding companies on our system of federalism, to mention just a few.

These areas of innovation and potential controversy will require not only policy decisions by the Commission on cases of first impression, but they will also require strong leadership and management to assure that the decisionmaking process itself is up to date and fully responsive to the needs of the public, the industry and Congress.

Assuring that the leadership and management of the Commission is responsive to these concerns will be my highest priority if confirmed. And in order to provide this leadership if confirmed, I intend to assemble a staff which is professional, experienced, and dedicated to these leadership and management goals.

Although, like the past three Chairmen, I have not previously served on the Commission, I do bring to the position to which I have been nominated an open mind, a sense of balance and fairness, a keen understanding of this Nation's energy needs, the experience of a successful businesswoman, and the perspective of a consumer of gas and electric service.

If the Senate confirms my nomination, I will roll up my sleeves and begin a difficult task with eagerness and dedication.

Thank you, and I will be happy to answer your questions.

[The prepared statement of Ms. Hesse follows:]

STATEMENT OF

MARTHA O. HESSE,

NOMINEE FOR COMMISSIONER,

FEDERAL ENERGY REGULATORY COMMISSION,

BEFORE THE

COMMITTEE ON ENERGY AND NATURAL RESOURCES

UNITED STATES SENATE

SEPTEMBER 9, 1986

STATEMENT OF MARTHA O. HESSE, NOMINEE
COMMISSIONER, FEDERAL ENERGY REGULATORY COMMISSION

Mr. Chairman, and Members of the Committee, it is a great honor to appear before the Committee as President Reagan's nominee for the unexpired portion of former Chairman Raymond O'Connor's term on the Federal Energy Regulatory Commission.

I would like to thank you, Mr. Chairman, the other Committee members, and the Committee staff for the assistance and courtesies provided to me since the nomination. I would also like to thank President Reagan for nominating me for this extremely important position. In addition, I would like to express my appreciation to Secretary Herrington for his support during this process.

Since copies of my Committee Information Statement have been made available to you, I will only briefly highlight my professional experience.

My career consists of over 20 years of management experience. In the private sector, I served as Director and Chief Operating Officer of a professional services company, which I co-founded. I held key management positions and directed the company's business and financial planning and operations. Under my direction the company grew to a multi-million dollar a year operation without any outside

financing. Some of my significant management accomplishments included developing corporate strategies, marketing approaches, and the organizational structure. Specifically, I determined lines of business to enter, established budget and operating plans, identified and secured clients, and recruited and managed the staff.

I have been privileged to devote the last six years of my career to public service. From 1981 to 1982, as Associate Deputy Secretary of the Department of Commerce, I provided direct support to the Deputy Secretary in administering the overall operations of the Department and resolved major policy and program operation issues that arose between the bureaus of the Department.

As an indication of the quality of my experience in the private and the public sectors, I was appointed Executive Director of President Reagan's Task Force on Management Reform. In this position, I was able to use the skills and knowledge from my professional experience to develop a long-term program for restructuring and improving the management systems of the Federal Government.

Since 1982, I have served as Assistant Secretary for Management and Administration of the Department of Energy. As the Department's principal business officer, I have direct or oversight responsibility for all Department operations,

including an annual cash flow of $22 billion and 135,000 government and contractor employees. The Department of Energy is a centrally-managed organization without bureaus and, because of manufacturing and other product-oriented operations, is run more as a business than as a government agency.

In my capacity as Assistant Secretary at the Department of Energy, I have had wide exposure to the various segments and problems of the energy community and have developed a keen appreciation for the critical role that energy plays in our nation's security.

The decisions of the Federal Energy Regulatory Commission have long-term implications for our nation's energy security. Although the short-term outlook for energy supplies in the country appears good, consideration must be given to long-term supply security. Particularly, the long-term reliability of the national electric grid and the generating capacity available to supply that grid must be a concern. In addition, the Commission must consider the impact of falling oil and gas prices on the future adequacy of natural gas supply. We must take care to avoid a recurrence of the energy shortages of the 1970s.

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workplaces, and their communities. Even though the Commission shares regulatory responsibility with state and local governments, it plays a major role, for example, as regulator of wholesale energy sales and interstate transmission.

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Beyond this, it is not possible for me at this time to speculate on the policy directions the Commission might follow in these regulated areas ir the future. Let me instead focus the remainder of my remarks on administrative matters which I believe deserve priority.

There are similarities among all organizations. Whether the focus of the organization is the generation of profit or the implementation of a statutory mandate, the objective ought to be maximum quality product for least cost resource investment, both in human and dollar terms. In that regard, I intend to look very carefully at the organizational structure and management systems of FERC with an eye toward moving the Commission's caseload with maximum efficiency.

Secondly, I would seek to create an environment in which informed policy formulation can take place. In recent months, the Commission has demonstrated the ability to use generic rulemakings as a vehicle for making major changes in Commission policy. The existence of a generic policy should make case-by-case decision-making more efficient. In that regard, I would like to explore further use of the rulemaking process to establish such policies. I do recognize that there are vast differences between the parties of interest before the Commission. Clearly, no generic policy can meet all special needs of individual parties and those specific needs should have a forum. The Commission must wrestle with these diversities within the context of specific dockets.

A generic policy strategy has the added advantage of sending clear, consistent signals to the industry which should encourage more efficient use of funds. Especially within the context of current energy markets, the time value of money ought to be emphasized and constantly considered. I favor a good and well-reasoned decision today rather than a perfect decision in the distant future. To further insure clear and consistent signals, the Commission must be prepared to implement its policies firmly and in a timely way.

Timely decision-making and efficient management are especially important in resolving a number of key issues currently before the Commission. For example, the Commission should implement its major natural gas reforms, Orders No. 436 and 451, predictably and consistently, in order to permit all segments of the industry to respond on a timely basis to the new competitive pressures and restructuring occurring in natural gas markets. In hydroelectric licensing, the Commission must process its caseload pertaining to small hydroelectric projects expeditiously in order to fulfill the mandate of Congress under PURPA and other national energy and environmental laws. At the same time, the Commission must prepare to carry out its statutory responsibilities for a multitude of large hydroelectric dams which will come before the Commission for relicensing in the late 1980s and early 1990s. These relicensing responsibilities may include new statutory mandates if Congress completes action on relicensing legislation.

Finally, the Commission must bring innovative management to its traditional wholesale electricity rate jurisdiction, as the electric utility industry begins facing a number of important structural issues, such as competition from cogeneration, retroactive challenges to the prudence of decisions to build new power plants, access to transmission capacity, and impacts of large interstate utility holding companies on our system of federalism, to mention just a few.

These areas of innovation and potential controversy will require not only policy decisions by the Commission on cases of first impression, but they also will require strong leadership and management to assure that the decision-making process itself is up-to-date and fully responsive to the needs of the public, the industry, and Congress.

Assuring that the leadership and management of the Commission is responsive to these concerns will be my highest priority if confirmed to the position for which I have been nominated. And in order to provide this leadership, if confirmed by the Senate, I intend to assemble a staff which is professional, experienced, and dedicated to these leadership and management goals.

Since I believe it is important to draw on the expertise of those who have served previously, I have met with former Chairmen of the Commission, from this and previous Administrations, all of whom have been most gracious and willing to share their thoughts and experiences. I have met with Raymond J. O'Connor; C.M. Butler, III; Charles B. Curtis; and Joseph C. Swidler. Each evidenced different approaches to issues and management. I found it most useful to view the process and the problems from multiple perspectives. I have certainly profited from their insights. As we all know, experience is often the most effective teacher.

Although, like the past three Chairmen, I have not previously served on the Commission, I do bring to the position to which I have been nominated an open mind ... a sense of balance and fairness ... a keen understanding of this nation's energy needs ... the experience of a successful businesswoman ... and the perspective of a consumer of gas and electric service.

If the Senate confirms my nomination, I will roll up my sleeves and begin a difficult task with eagerness and dedication.

Thank you for your time and your consideration. I would be pleased to respond to any questions the Committee may have.

Senator HECHT. Thank you, very much.

Senator WEICKER, do you have any questions?

Senator WEICKER. Thank you, very much, Mr. Chairman.

I have a couple of questions on a specific situation and I think this is as good a moment as any, while I have your attention, to bring the matter to your attention.

As you know, the Federal Energy Regulatory Commission is responsible for making decisions on a great many energy issues, from wellhead prices in Texas, to licensing of hydroelectric projects in Alaska, and generally these are not the kinds of issues that we are faced with in Connecticut.

However, we face others and one of them has become very controversial. That is the proposal by the Iroquois Gas Transmission System to construct a 356-mile pipeline from Canada, through New York and Connecticut, to Long Island.

I can think of no energy issue of greater concern to my constituents in northwest Connecticut at this time than the pipeline project. Not only are these constituents concerned about the potential environmental impact of such a large project on the most scenic and unspoiled lands in the State, but they feel shortchanged by learning that such a project could be authorized by the Commission under expedited procedures that may not allow their concerns to be fully heard and adequately considered.

As I understand it, Iroquois has made an application with the Commission for a certificate of convenience and public necessity, using the expedited procedure, Order 436. However, I also understand that Order 436 was only promulgated last October and no applications requesting the use of the new procedures have yet been granted by the Commission.

In fact, I understand that certain aspects of the procedures and their implications remain undetermined by the Commission. Believe, if the Commission is unclear as to the adequacy of these expedited procedures, you can imagine the level of concern and confusion among my constituents in Connecticut, and I think they deserve better.

I am seriously concerned that a determination of the need for this pipeline could be made without an opportunity to those most affected to be fully heard.

As a result, I wrote to Acting Chairman Sousa last month to urge that the Commission not consider this project under expedited procedures. Although I have not yet received a response to my letter, I was very gratified to learn last week that the Commission will be requiring an environmental impact statement be completed.

This requirement will allow for comment on the draft environmental impact statement by all interested parties and will add several months to the environmental review procedures of the project.

An environmental impact statement responds in part to the concerns expressed in my letter. However, I must say, if you want to mitigate the environmental impact of a pipeline through Connecticut, then you do not put it through the most scenic and unspoiled land in the State, and you do not put it through Litchfield County and through the parks and farms that exist there. It would seem to me that it is best placed along the existing railroads, highways or power line right-of-way.

Now, as you know, the State of Connecticut is only a third in the United States in its land area that sits right in the metropolitan corridor, and that northwest corner of the State, literally, is the most—Thank you, John.

John said, "Careful, the rest of the State is pretty good, too." I agree. [General laughter.]

But in terms of its unspoiled nature, and it does not have dense population, it is unique. So, I, again, emphasize the environmental aspects of what it is that is being proposed here, or the environmental ramifications.

As for the expedited procedures, I would like to reaffirm and reiterate that I have serious reservations about them, as I wrote last month. A finding of need for a project of this size and scope is critical to the success or failure of the project and should not be made without the full participation of those affected.

I would hope that if you are confirmed, I would urge that you do everything you can to assure that these concerns are heard and are fully considered.

The three questions that I have—I understand that the expedited procedures are triggered by a finding of need for a project. In making this finding, to what extent are public comments solicited? For example, is there a requirement for public hearings?

Ms. HESSE. Senator Weicker, the Iroquois project is, as you mentioned, a 355-mile pipeline system from the Canadian border through the northeastern States of New York and Connecticut, and which has been filed under Order No. 436 as a request for an optional expedited certificate.

There have been many townships and other individuals that have intervened in this docket. The environmental responsibilities of the Commission under the National Environmental Policy Act are independent of any other responsibilities that the Commission has.

An environmental assessment is in process. All parties have been asked for comment.

It is my understanding that what triggers the expedited procedure is the shareholder's assumption of risk rather than a finding of need for the project or a requirement for public hearings for environmental issues.

Senator WEICKER. Could you just repeat that? The last part.

Ms. HESSE. What triggers the expedited procedure is the shareholders' assumption of risk, and any time that there is a material issue of fact, which would be raised by one or more intervenors, there would be a public hearing. And it is my understanding there has been intervention by interested parties in the Iroquois project.

Senator WEICKER. In reviewing the application of the project, will the Commission consider alternative routes which would reduce the environmental impact? Is that something that the Commission can review?

Ms. HESSE. That is a standard part of the procedure, as I understand it.

Senator WEICKER. Before my last question to you, which is the essence of this matter, as I understand it, there have been no other applications under this expedited process. Is that correct? This is the only one out there right now?

Ms. HESSE. I would have to supply that for the record.

Senator WEICKER. Fine. And even though the application is made under an expedited basis, would the proper issues being raised, they would receive the same attention and the same investigation as under the normal process?

Ms. HESSE. That is my understanding, yes, sir.

Senator WEICKER. And, if confirmed, will you assure me that the concerns as they are formally and properly expressed by the various entities, be they governmental or be they individual, that these concerns will be appropriately considered and given the appropriate procedures as to that consideration—that nothing is going to be rushed through here

Ms. HESSE. Senator, you have my word that all of the procedures and processes that are required by law regarding this issue will be accurately and efficiently and carefully followed.

Senator WEICKER. It would certainly be my hope that, whereas I am sure we all want to expedite your confirmation, I do not want to expedite the Iroquois application at this stage of the game.

Ms. HESSE. Message received.

Senator WEICKER. Thank you, very much.

Senator HECHT. Thank you. Is there anything else, Mr. Weicker?

Senator WEICKER. No, thank you, Mr. Chairman.

Senator HECHT. Senator Warner, do you have an opening statement or questions?

STATEMENT OF HON. JOHN W. WARNER, A U.S. SENATOR FROM THE STATE OF VIRGINIA, ON THE NOMINATION OF MARTHA O. HESSE

Senator WARNER. Thank you, Mr. Chairman. I would like a brief statement to be placed in the record, which reflects my confidence and respect for this outstanding nominee, who has achieved this recognition by the President, and I anticipate, soon to be confirmed by the Senate, because of a long series of competent positions that she has held.

I wish you luck.

[The prepared statement of Senator Warner follows:]

STATEMENT BY
SENATOR JOHN WARNER
BEFORE THE ENERGY AND NATURAL RESOURCES COMMITTEE
ON THE NOMINATION OF MARTHA O. HESSE
TO BE CHAIRMAN OF THE FEDERAL ENERGY REGULATORY COMMITTEE

Ms. Hesse, I would like to commend you for agreeing to tackle the monumental task of serving as Chairman of the Federal Energy Regulatory Commission.

I believe the President has selected an experienced professional with well-honed management skills perfected in the private sector and from your years as Assistant Secretary for Management and Administration at the Department of Energy.

The Commission has before it a prime opportunity to foster consistency in its policies and offer more stability to energy industries which come before the FERC.

As a member of this Committee, I look forward to working with you during your tenure as Chairman of the FERC, and you have my complete support.

Senator HECHT. I have no questions at the moment. There will be some written questions from Senator McClure, and there may be questions from other Senators to be submitted to the nominee for written response. The questions may be submitted at any time up to the close of business today.

I would just make one remark. I would have to say this is the least controversial nomination, because there is not one Democratic Senator present, and that speaks very well of you.

Ms. HESSE. Thank you.

Senator HECHT. Oh, Senator Ford was here. I am sorry. But he left.

Anything else?

[No response.]

Senator HECHT. That is all. The nominee is excused.

Our second witness is J. Allen Wampler, who has been nominated to the position of Assistant Secretary for Fossil Energy. As Assistant Secretary, he will be responsible for formulating and directing a comprehensive national program to develop and demonstrate coal, oil, natural gas and shale technologies.

In addition, Mr. Wampler will manage both the Naval Petroleum Reserve and the Strategic Petroleum Reserve. He will also represent the Secretary of Energy as the principal DOE spokesman on U. S. fossil energy policy and programs.

Mr. Wampler is currently Vice-Chancellor of Administration at Illinois Eastern Community Colleges, and he previously served for 2 years as Dean of Mining at Wabash Valley College in Illinois.

During 1979–80, Mr. Wampler was Deputy Director of Labor Management Relations for the President's Commission on Coal. He has also held various positions within the coal industry, and has taught in the West Virginia Public School System.

Mr. Wampler, the rules of the committee, which apply to all nominees, require that they be sworn in, in connection with their testimony.

Please rise and raise your right hand.

[Whereupon, J. Allen Wampler was duly sworn by Senator Hecht.]

Senator HECHT. Please be seated.

Before you begin your statement, there are four questions addressed to witnesses before this committee who are nominated for positions. I would like to ask these questions of you.

Would you be available to appear before this committee and other congressional committees to represent departmental positions and respond to issues of concern to the Congress?

Mr. WAMPLER. I will.

Senator HECHT. Your informational statement has been submitted to the committee. However, it is required that this statement be made public unless the committee decides that special circumstances justify an exception.

Do you have any objection to the publication of your statement?

Mr. WAMPLER. I have no objection.

Senator HECHT. Are you aware of any personal holdings, investments or interests that could constitute a conflict of interest or create the appearance of such a conflict should you be confirmed

and assume the office to which you have been nominated by the President?

Mr. WAMPLER. I have no such holdings.

Senator HECHT. Are you involved, or do you have any assets held in a blind trust?

Mr. WAMPLER. No.

Senator HECHT. Please proceed with your statement.

STATEMENT OF J. ALLEN WAMPLER, NOMINEE TO BE ASSISTANT SECRETARY FOR FOSSIL ENERGY, DEPARTMENT OF ENERGY

Mr. WAMPLER. Mr. Chairman and members of the committee, I am deeply honored to appear before you as the President's nominee for the position of Assistant Secretary for Fossil Energy in the U.S. Department of Energy.

I recognize that the committee has a full schedule, and therefore, with your permission, Mr. Chairman, I would submit my entire statement for the record and briefly summarize some of its key points.

Senator HECHT. Thank you, very much. Your full statement will be a part of the record.

Mr. WAMPLER. If confirmed by the Senate, I look forward to joining a team of dedicated, skilled employees at the Energy Department. I have had an opportunity to meet members of the Fossil Energy staff over the last few days, and without exception, I am impressed with their commitment.

I look forward to working with Secretary Herrington. The Secretary conveys a sense of confidence and optimism about this Nation's energy future, and yet he remains convinced that we must approach that future with continued diligence rather than complacency. And I look forward to working with this committee in developing an effective, forward-looking Fossil Energy Program, one that can return meaningful dividends to the American taxpayer.

The opening section of my prepared testimony describes my background, education, and experience. I will not repeat it except to say that my involvement with energy is, as you can see, deeply rooted in an association with coal.

I also bring to the job a keen interest in the production of oil and natural gas, and a conviction that a strong oil and gas industry is vital to the economic well being of this Nation.

As described in my statement, I bring a number of goals to the office of the Assistant Secretary for Fossil Energy. In formulating these goals, I was struck by the sheer magnitude of the challenge—the challenge of ensuring that clean, economical fossil fuels remain available to this country in a usable form for generations to come.

If confirmed, it is a challenge that I assure you I would face with a deep sense of responsibility.

I firmly believe there are two necessary ingredients in any successful management endeavor. One is the establishment and constant improvement of effective lines of communication, both within an organization and to outside audiences. The second is pulling together resources produced by common interests.

I believe these two precepts certainly apply to the fossil fuels area. My first goal, therefore, will be to continue and strengthen

the solid partnerships between the Office of Fossil Energy and the private sector, academia, other Federal agencies and Congress.

These partnerships are fundamentally important to the effectiveness of the Fossil Energy Research Program. Our academic institutions stand second to none in conducting the basic research that fosters new ideas and concepts and nurtures the talents of tomorrow's scientists and engineers. Our industrial establishment, given a conducive economic climate, can still turn laboratory promises into commercial realities better and faster than any nation in the world. And I am determined that the Office of Fossil Energy will continue to be viewed not as a competitor to this technological progression, but as a stimulus.

My second goal is to improve the lines of communication necessary to ensure that usable information produced by research and development is transferred in an understandable form, on a formalized, periodic basis to the private sector.

My third goal would be one of constantly evaluating the long-term fossil research efforts. I believe that long-term high-risk research does not preclude structured milestone evaluation as to current and future cost-effectiveness and need.

I want to ensure continued sound management of our Nation's petroleum reserve. The Strategic Reserve is an energy achievement in which Americans can take pride. It represents a solid defense against a recurrence of the supply disruptions of the 1970's, but we must remain vigilant.

The Strategic Reserve will be as important to future generations as it is to the current, and I am committed to working with Secretary Herrington in fashioning fiscally responsible policies that reflect that measure of preparedness.

I believe we must continue to ensure that those Federal assets which function much like a business are, in fact, managed in the most businesslike fashion. While oversight of the Naval Petroleum Reserves and the Great Plain Coal Gasification Project remains the Government's responsibility, I believe that adequate and effective management will be of paramount importance.

My final goal is a very personal one and one that I have been involved with for a number of years. While vast improvements have been made in the past decade, I believe the fossil fuel sector could do more to increase public awareness and understanding. We have an opportunity to promote an awareness and necessity for diversified balanced energy mix and the assets and liabilities of each ingredient in that mix. It is my goal to improve public understanding through efforts by the Department and by encouraging similar initiatives within the private sector.

In conclusion, I am committed, if confirmed, to discharging the duties of Assistant Secretary for Fossil Energy in an open, cooperative manner, actively seeking advice and counsel from this committee and from the other sectors affected by the Office.

Thank you for your courtesy. I will be happy to answer any questions you have.

[The prepared statement of Mr. Wampler follows:]

STATEMENT OF

J. ALLEN WAMPLER

NOMINEE FOR THE POSITION OF
ASSISTANT SECRETARY FOR FOSSIL ENERGY
DEPARTMENT OF ENERGY

BEFORE THE

COMMITTEE ON ENERGY AND NATURAL RESOURCES
UNITED STATES SENATE

SEPTEMBER 9, 1986

Mr. Chairman and Members of the Committee, I am deeply honored to appear before you as the President's nominee for the position of Assistant Secretary for Fossil Energy in the U.S. Department of Energy.

If confirmed by the Senate, I look forward to joining a team of dedicated, skilled employees at the Energy Department whose commitment, like mine, is to a cleaner, more efficient society fueled by our most secure, domestic energy resources. I look forward to working with Energy Secretary Herrington in his effort to build upon the considerable progress made already by this nation in developing the new concepts and improved technologies that future generations will need for a mixed and balanced energy resource system. And I look forward to working with this Committee is developing an effective, forward-looking fossil energy program that can return meaningful dividends to the American taxpayer.

In describing my qualifications for this task, I would be remiss not to mention the fact that I was born in the small coal mining town of Bartley, West Virginia, and spent the first sixteen years of my life living adjacent to a mine ventilation fan in English, West Virginia. My father is a retired coal miner.

I received my formal education at Bluefield State College, where I graduated in 1965. Subsequently, I began teaching science in the public school system of West Virginia. I later worked for the same state in Highway Inspection and Construction and then left the state to work at the Radford Army Arsenal where I supervised the prototype weapons manufacturing installations and directed major facility improvements.

In 1970, I returned to the coal industry as an Assistant Maintenance Foremen for Island Creek Coal Company. After a brief period of time, I became Chief Maintenance Foreman in what at the time was the deepest underground mine in North America. I then became Division Supervisor of Training and, finally, Corporate Manager of Training and Development with responsibility for human resources at fifty operations in five states. I served in this capacity for three years.

In 1976, I was appointed to the position of Vice President of the Bituminous Coal Operators' Association in Washington, D.C. I later worked with the President's Commission on Coal with the classification of Expert Consultant and acted as Deputy Director of Labor Management Relations. After the Commission's expiration, I became Vice President and Manager of the Washington, D.C., office of NPL Inc., a Houston, Texas, based firm, which dealt primarily with business communication in energy industries.

In 1982, I accepted the position of Dean of Mining for Wabash Valley College, one of the four colleges that comprise the consortium of Illinois Eastern Community Colleges. I was promoted in 1984 to the position of Vice Chancellor of Administration for Illinois Eastern Community Colleges International Institute. I have served on a number of advisory committees with industry and government and on a Department of Interior Task Force, which evaluated mining operations in Eastern and Western Europe.

GOALS

As I began to formulate the goals that I would like to bring to the Office of the Assistant Secretary for Fossil Energy, I was struck by the sheer magnitude of the challenge - ensuring that clean, economical fossil fuels remain available in this country in a usable form for generations to come. If confirmed, it is a challenge that I assure you I would face with a deep sense of responsibility.

As I describe the following goals, I hope the Committee will gain a sense of the mangement style that has molded my career for the past twenty years.

I firmly believe that there are two necessary ingredients in any successful management endeavor, whether it involves academic administration, industrial manufacturing or the management of a research and development program. One is the establishment and constant improvement of effective lines of communication -- both within an organization and to outside audiences. The second is pulling together resources produced by common interests. I believe these two precepts certainly apply in the fossil fuels area and that it is imperative that the Office of the Assistant Secretary for Fossil Energy seek active cooperation and input from the total spectrum of interested parties.

My first goal, if confirmed, will be to continue and strengthen the solid partnerships between my office, the private sector, academia, other federal agencies and the Congress -- cooperative partnerships that are vital to the effectiveness of a fossil energy research program. Our academic institutions stand second to none in conducting the basic research that fosters new ideas and concepts and nurtures the talents of tomorrow's generation of scientists and engineers. Our industrial establishment, given a conducive economic climate, can still turn laboratory promises into commercial realities better and faster than any nation in the world. I am determined that the Office of Fossil Energy be viewed not as a competitor to this technological progression, but as a stimulus.

In my admittedly brief review of the fossil energy program, I have seen examples of these partnerships at work -- the University Coal Research program which provides federal grants to academic researchers probing the fundamental properties of coal and its constituents, the cooperative efforts with the Electric Power Research Institute and the Gas Research Institute to prove the technical concepts of new ideas and innovations, the Clean Coal Technology program where government and industry will work as financial partners, and the list could go on.

I believe the cooperative ventures approach to R&D funding is an idea worth pursuing, if it can be shown to bring about increased participation by industry in shaping our fossil energy program.

These partnerships are essential if we are to make the most effective use of tax dollars. Policy, planning and constant evaluation should not be attempted without strong private sector involvement. This involvement is something I want to continue and enhance.

My second goal is somewhat related to and facilitated by the first. This goal would be to improve the lines of communication necessary to insure that usable information produced by research and development is transferred in an

understandable form, on a formalized periodic basis, to the private sector. The usable by-products of research, particularly when they do not apply directly to the stated goal of a particular research project, are too often lost to the private sector. I certainly do not mean to imply that technology transfer is not currently taking place. Essentially, I believe that a new look at "when, where and to what audience" is in order. For example, an aggressive program aimed at technology transfer to the small business community could, in my opinion, produce some interesting results.

My third goal would be one of constantly evaluating the long-term Fossil Energy Research efforts from the standpoint of continuing applicability and direction. It is my opinion that long-term, high risk research does not preclude structured periodic milestone evaluation from the standpoint of current and future cost effectiveness and commercial applicability. Again, those evaluations should not be made in a vacuum, but with input from all interested parties.

My fourth goal would be that of ensuring sound management of our nation's petroleum reserves. The Strategic Petroleum Reserve is one of the energy achievements in which America can take particular pride. With the Reserve, we have built a solid defense against a recurrence of the supply disruptions of the

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1970s, but we must remain vigilant. The Strategic Reserve will be as important to future generations as it is to the current, and I am committed to working with Secretary Herrington in fashioning fiscally-responsible policies that reflect that approach to emergency preparedness.

I believe we must continue to ensure that those federal assets which function much like a business are, in fact, managed in the most businesslike fashion. The Naval Petroleum Reserves and the Great Plains Coal Gasification Project have been entrusted to our oversight, and while they remain our responsibility, I believe that adequate and effective management will be of paramount importance.

My final goal is a very personal one and one that I have been involved with for a number of years. While vast improvements have been made in the past decade, I believe that the Fossil Fuels sector could do more to increase public awareness and understanding. This would include promoting an awareness of the necessity for a diversified, balanced energy mix and the assets and liabilities of each ingredient of that mix. In addition, the public should be made aware of the costs associated with changing the mix as well as the massive efforts taking place to meet national environmental and health and safety objectives.

It is my goal to see public understanding improved through efforts by the department and by encouraging similar initiatives within the private sector.

In conclusion, my overall commitment if confirmed is to discharge the duties of the position of Assistant Secretary for Fossil Energy in an open cooperative manner, actively seeking advice and counsel from this Committee and from the other sectors affected by the office.

Thank you for your courtesy in allowing me to share my background and goals with you today. I will be happy to answer any questions you have.

Senator HECHT. Thank you very much.
Senator Warner.

STATEMENT OF HON. JOHN W. WARNER, A U.S. SENATOR FROM THE STATE OF VIRGINIA, ON THE NOMINATION OF J. ALLEN WAMPLER

Senator WARNER. Thank you, Mr. Chairman.

Mr. Chairman, I am very pleased to note the President's nomination of Mr. Wampler, and I join with my colleagues in welcoming you to the committee.

I am pleased to see that your experience includes time in our Appalachian coalfields when you were with the Island Creek Coal Co., and specifically, in Virginia at the Radford Army Arsenal.

I am sure you are aware of the keen interest of many of us here in the Senate, and our support for the Department of Energy Fossil Energy Research and Development Program. We remain committed to increasing the use of our vast domestic coal reserves, to enhance our energy independence and security.

We worked diligently, along with our chairman, Mr. McClure, Senator Ford, and I know Senator Rockefeller, likewise, is quite interested. We commend the administration for moving promptly to select nine projects to demonstrate the new technologies to burn coal in a more clean and environmentally acceptable manner.

I continue to believe that these emerging technologies will be successfully demonstrated and will greatly advance our national goals of utilizing an immense domestic energy source, coal, in an environmentally acceptable manner. However, we are concerned, many of us on this committee, with respect to the administration's budget request for the fossil energy activities in lieu of the Clean Coal Technology Program.

Sustained research on integrated coal gasification combined cycle system, gas stream cleanup and coal preparation offer, in our judgment, the near-term options which merit the strong support, not only of the Congress, but of the administration and, namely, the Department of Energy.

From our discussions with experts within the Department of Energy and scientists, particularly at the Morgantown Energy Technology Center, in West Virginia, and in the private sector, we have been convinced that they are on the verge of breaking the barriers to making coal-fueled locomotives technically and economically feasible.

Again, a number of us—notably Senator Ford, minority leader Senator Byrd, and others, Mr. Rockefeller, and on our side—McClure and others—who have helped us get this far feel that there is some potential in looking at a coal-fueled locomotive.

In the Department's own report, "Assessment of Coal-Fueled Locomotives," issued in July of 1986—and I have a copy here and I am certain you are aware of this report—it is recognized using indirect-fired heat engines and direct-fired heat engines with onboard fuel conversion could be available perhaps as soon as 5 years.

I call this matter to your attention, Mr. Wampler, because I believe with some short-term support from you and your Department, we could see coal-fueled locomotives become a reality, certainly an

option to this Nation, in view of the many uncertainties in terms of energy program.

I am going to ask you right now, are you going to put your shoulder into the harness and do what you can to make this a reality for this Nation; to have the option of coal-fueled locomotives for its rail system?

Mr. WAMPLER. Senator, if I am confirmed, I will certainly give the matter my immediate attention.

Senator WARNER. That is fine. You can spend the first day on it, but I am worried about the second and the third. I can assure you that I, and I am certain other of my colleagues on this committee, are going to pursue this. I have been 8 years now, and most of the Members have been here a lot longer than I—the most dismal period in my brief Senate tenure was that fuel crisis.

The amount of problems that we had here in the Congress, quite apart from the incredible hardships imposed upon Americans and industry, has left indelibly in my mind a need for this country to have options other than petroleum as a source for its energy. Even though at this time, it appears to be costly, and indeed it is in comparison to the low prices of oil worldwide, there is just no basis on which we, as a Nation, for national security reasons, can rely solely on that option for our long-term energy independence.

So I appreciate your looking at it the first day, and I will be there the second and the third, together with my colleagues on both sides of the aisle to pursue this matter.

I invite you to take a ride with me some day.

Mr. WAMPLER. I certainly shall.

Senator WARNER. Thank you, Mr. Secretary. I wish you luck. You are eminently qualified and I hope this proves to be a very challenging and rewarding chapter in your career.

Mr. WAMPLER. Thank you very much.

Senator WARNER. Thank you, Mr. Chairman.

Senator HECHT. Let me just ask, are there any questions on this side?

Mr. HARVEY. I know Senator Bradley is on his way here.

Senator HECHT. We will have a short recess, as Senator Bradley is on his way. I don't want to close it off, but on the other hand, I will not continue indefinitely.

[Recess taken.]

Senator HECHT. We will reconvene. The 5 minutes not being up, Senator Bradley as arrived, and you may now start your questioning.

Senator BRADLEY. Thank you very much, Mr. Chairman. I appreciate the courtesy that you have shown in delaying and allowing me to come over.

I would like to talk a minute, if I could, Mr. Wampler, about your attitude toward the SPR. Do you have a general attitude toward it?

Mr. WAMPLER. As I said in my opening statement, Senator, I think it is absolutely imperative that we have a Strategic Petroleum Reserve. I applaud the President's recent reaffirmation of the 750 million barrel capacity goal of the Strategic Reserve. I understand that we have a current inventory of 505 million barrels and

a current capacity of 510 million barrels. I do support the Strategic Reserve.

Senator BRADLEY. Well, you know we were filling at 50,000 barrels a day in purchases from Mexico until August 31. That contract has expired. You also know that the Congress had to insist that money already appropriated for the SPR be spent in the purchase of oil.

Do you intend to advocate a higher fill rate than 50,000 barrels a day?

Mr. WAMPLER. I think that the Reserve needs to be filled as rapidly as capacity and budget constraints will allow it to. I have not been involved in the issue long enough at this point to make that kind of judgment. I certainly, if confirmed, will get into that at a very early date.

Senator BRADLEY. Did you know that the Administration just reversed its position when it allowed the expiration of the purchase of Mexican oil on August 31. It has said that we will purchase 35,000 barrels domestically, and 8,000 barrels a day from Elk Hills.

Now, does that make sense to you; that you purchase only 43,000 barrels a day? You have cut the purchase from 50,000 to 43,000?

Mr. WAMPLER. I am not up to date on exactly what is happening there. The one thing I could say is that I certainly support any reasonable efforts to help the domestic industry. Again, I promise to take a very quick look at that, if confirmed.

Senator BRADLEY. So you say you would support the effort to purchase oil from domestic producers?

Mr. WAMPLER. I think that the domestic oil and gas industry has a lot of problems at this point in time. It is a very critical industry. But I would not say that I would support the purchase from domestic sources entirely. I think what needs to be supported are our efforts to fill that Reserve in an economical way, and I would not support total restriction, at this point in time, given the information that I have.

Senator BRADLEY. I see. Well, would you advocate that we resume purchases from Mexico?

Mr. WAMPLER. Senator, I really would like to take that under advisement and look at it later when I have some more information. I feel uncomfortable giving you anything further on that.

I would be glad to provide you something for the record, if you would like. I would like to take it under advisement.

Senator BRADLEY. Would you say, based upon your preparation for this job that DOE has legal authority to prohibit foreign producers from bidding to supply SPR oil?

Mr. WAMPLER. Senator, that is a question that I would feel very uncomfortable even hazarding a guess on. I have not been involved in the legal issue. I understand there is a legal question and I have not been involved in that.

Senator BRADLEY. Let me ask you this: When you purchase 35,000 barrels a day from domestic producers, what types of producers do you think are most likely to benefit?

Mr. WAMPLER. Senator, I have not had a chance to look at all the issues involved in this matter, and I am not up to speed, quite frankly, on that kind of detail on this issue. Again, I think they are

very important issues and I would address them very early on, if confirmed.

Senator BRADLEY. Mr. Chairman, I think these are pretty important answers. I would like to have the answers to these questions.

This is going to be your area. I think, given this committee's history of strong support for SPR, that the least we can do is get this information from you prior to confirmation.

Mr. WAMPLER. Very well. I will certainly be glad to do that.

Senator BRADLEY. Thank you very much, Mr. Chairman. I will look forward to receiving the information.

Thank you.

Senator HECHT. Are there any other Democratic Senators on the way?

[No response.]

Senator HECHT. I don't want to make the same mistake twice.

I have no questions at this time. There may be written questions from members of the committee. They may be submitted at any time up to the close of business today.

Mr. Wampler, thank you for your testimony.

The hearing is adjourned.

[Whereupon, at 11:20 a.m., the hearing was adjourned.]

[Subsequent to the hearing the committee received the following letter:]

SEP 05 '86

Mining and Reclamation Council of America

Suite 525 • 1575 Eye Street, N.W. • Washington, D.C. 20005 • (202) 789-0220

September 3, 1986

SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES
SEP 08 1986
WASHINGTON D.C. 20510

The Honorable James McClure
U. S. Senate
301 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Senator McClure:

On September 9, 1986, the Energy and Natural Resources Committee will hold a hearing on the nomination of Allen Wampler to be Assistant Secretary of Energy for Fossil Fuels. I am writing to apprise you of the support of the Mining and Reclamation Council of America (MARC), for Mr. Wampler's confirmation.

MARC has been acquainted, and worked with, Allen Wampler through various positions he has held since the formation of MARC in late 1977. Allen is a competent and seasoned professional of high integrity. Further, from the perspective of the coal industry, which MARC represents, he understands the coal industry, the problems facing the coal industry, and the issues which impact the production and transportation of coal as well as the markets for that coal.

While we are also aware that Allen has familiarity with the oil industry, we are not in a position to comment on that aspect of his background. From our perspective, Allan Wampler's confirmation to the position of Assistant Secretary of Fossil Fuels at the Energy Department would help to assure that there is a full and comprehensive understanding of issues impacting the coal industry within the jurisdiction of the Assistant Secretary. MARC encourages you to support his nomination.

Sincerely,

Daniel R. Gerkin
President

DRG:jlc

APPENDIXES

APPENDIX I

Biographies and Informational Statements of the Nominees

U.S. Department of Energy
Assistant Secretary for
Congressional, Intergovernmental
and Public Affairs
Office of Public Affairs
Washington, D.C. 20585
202/252-5644

BIOGRAPHY

MARTHA O. HESSE

Martha O. Hesse was named Assistant Secretary for Management and Administration, U.S. Department of Energy (DOE) on November 10, 1982, pursuant to a recess appointment granted by President Reagan. She was confirmed for the position by the Senate on December 8, 1982.

In this position, Ms. Hesse is the principal business officer and adviser to the Secretary. She has direct or oversight responsibilities for $22 billion a year and 135,000 government or contractor employees, including budget, personnel management, contracting and procurement and finance accounting. She is also a member of the President's Council on Management Improvement.

Before joining DOE, Ms. Hesse was Executive Director of the President's Task Force on Management Reform, located in the Office of Management and Budget.

From February 1981 until her White House assignment, Ms. Hesse was Associate Deputy Secretary of Commerce, where she provided direct support to the Deputy Secretary in administering the overall operations of the Department and resolved major policy and program operation issues that arose among the bureaus of the Department.

A prominent Chicago businesswoman, Ms. Hesse in 1969 became director and chief operating officer of SEI Information Technology in Chicago. As co-founder of this professional services company, she held key management positions and directed the company's business activities.

Ms. Hesse attended the University of Iowa, majoring in psychology, and received an MBA (The Executive Program) from the University of Chicago in 1979.

April 1986

UNITED STATES SENATE
COMMITTEE ON ENERGY AND NATURAL RESOURCES
STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

Name: Hesse (LAST) Martha (FIRST) Ossian (OTHER)

Position to which nominated: Member of the Federal Energy Regulatory Commission **Date of nomination:** 8/4/86

Date of birth: 14 (DAY) 08 (MONTH) 42 (YEAR) **Place of birth:** Hattiesburg, Mississippi

Marital status: Single **Full name of spouse:**

Name and ages of children None

Education:

Institution	Dates attended	Degrees received	Dates of degrees
University of Iowa	1960-1964	NA	
Northwestern University	1976-1977	NA	
University of Chicago	1977-1979	MBA	1979

Employment record: List below all positions held since college, including the title and description of job, name of employer, location, and dates.

Research Analyst, National Blue Shield, Chicago, IL, 1964-1966

Research Associate, National Opinion Research Center, University of Chicago, Chicago, IL, 1966-1967

Director, Division of Data Management, American Hospital Association, Chicago, IL, 1967-1969

Consultant, Compucare, Inc., Chicago, IL, 1969-1970

Director, Information Services Center, American College of Hospital Administrators, Chicago, IL, 1971-1977

Employment record—Continued

Director and Chief Operating Officer, SEI Information Technology. Chicago, IL, 1969-1980.

Associate Deputy Secretary, U.S. Department of Commerce, Washington, DC 1981-1982.

In May, 1982, I was detailed to the Office of Management and Budget as Executive Director, President's Task Force on Management Reform.

Assistant Secretary, Management and Administration, Department of Energy Washington, DC, 12/82 - Present

Military service: Describe any military service not listed above, including dates, rank, and type of discharge.

None

Honors and awards: List below all scholarships, fellowships, honorary degrees, military medals, honorary society memberships, and any other special recognitions for outstanding service or achievement.

None

Memberships: List below all memberships and offices held in professional, fraternal, business, scholarly, civic, charitable and other organizations.

Organization	Dates	Office held (if any)
Data Processing Management Association	1975-1977	None
Dean's Fund University of Chicago Graduate School of Business	1982-1984	Vice Chairman

Published writings:

List the titles, publishers and dates of any books, articles, or reports you have written.

None.

(I participated in the development of several manuals on current medical/procedural terminology while employed by Blue Shield Association. I do not recall the exact titles, and do not consider that my efforts would rise to the level of authorship.)

Future employment relationships:

1. Will you sever all connections with your present employer, business firm, association or organization if you are confirmed by the Senate?

I am currently an employee of the Federal government

2. Do you have any plans after completing government service to resume employment, affiliation or practice with your current or any previous employer, business firm, association or organization?

I have no such plans.

3. Has a commitment for employment after you leave government been made to you by anyone? Have you made any such commitment?

No.

4. (a) If you have been appointed for a fixed term, do you expect to serve the full term?

Yes.

Future employment relationships—Continued

(b) If you have been appointed for an indefinite term, are there any known limitations on your willingness or ability to serve for the foreseeable future?

Does not apply.

Financial statement:

1. Attach a copy of your Executive Personnel Financial Disclosure Report (SF 278).

2. List sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services and firm memberships or from former employers, clients, and customers. Amounts should be indicated by the categories established for reporting income on Form SF 278, Schedule A.

None.

3. Are you currently a party to any legal action? If so, describe its nature and status.

No.

4. Have you ever declared bankruptcy? If so, describe the circumstances.

No.

5. Have you filed a Federal income tax return for each of the last 10 years? If not, please explain.

Yes.

6. Has the Internal Revenue Service ever audited your Federal tax return? If so, what resulted from the audit?

My personal tax return for 1978 was examined as part of a routine audit of a closely held corporation of which I was an officer and major stockholder. The return was found to be in order.

Potential conflicts of interest:

1. **List any investments, obligations, liabilities, or other relationships which might involve potential conflicts of interest with the position to which you have been nominated.**

There are none.

2. **Describe any business relationship, dealing or financial transaction (other than taxpaying) that you have had during the last 10 years with the Federal Government, whether for yourself or relatives, on behalf of a client, or acting as an agent, which might in any way constitute or result in a possible conflict of interest with the position to which you have been nominated.**

There are none.

3. **Describe any lobbying activity which you have performed during the past 10 years with respect to legislative or administrative actions at the Federal, State or local level.**

I have not engaged in any lobbying activities.

4. **Have you been informed of the conflict of interest laws and regulations applicable to the position to which you have been nominated?**

Yes.

Potential conflicts of interest—Continued

5. Explain how you will resolve any potential conflict of interest that may be disclosed by your responses to this form and the attachments thereto. Attach a statement of the appropriate agency ethics official explaining the applicable laws or regulations, any potential conflicts, and the action required to resolve such conflicts.

Does not apply.

6. Explain how you will resolve any potential conflicts of interest that may arise in the future if you are confirmed for the position for which you have been nominated.

I will comply with the Commission's regulations concerning conflicts of interest and will seek and abide by the advice of the Assistant General Counsel for Standards of Conduct.

Public disclosure: Do you have any objections to this form and the attachments thereto being made public?

No.

AFFIDAVIT

DISTRICT OF COLUMBIA } ss

I, Martha Hesse, being duly sworn, hereby state that I have read the foregoing Statement for Completion by Presidential Nominees, including all attachments thereto, and that the information provided therein is, to the best of my knowledge and belief, current, accurate, and complete.

Martha Hesse
(Signature of Nominee)

Subscribed and sworn to before me this 15th day of August, 19 86

Cheryl D. Arrington
Notary Public

My Commission Expires November 14, 1989

Form approved by the Committee February 5, 1985.

U.S. GOVERNMENT PRINTING OFFICE : 1985—43-656

Honorable James A. McClure
Chairman, Committee on Energy
and Natural Resources
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

Please be advised that pursuant to section 201(b) of the Ethics in Government Act of 1978, as amended, I have informed the appropriate ethics officials that the information required by section 202(a)(1)(A) with respect to income and honoraria is current as of September 5, 1986. A technical correction is necessary on page 3, line 1: the category of value should be changed from $50,001-$100,000 to $15,001-$50,000.

Sincerely,

Martha O. Hesse

DISTRICT OF COLUMBIA ss

Subscribed and sworn to before me
this 5TH day of September, 1986.

Notary Public

My commission expires March 31, 1991

cc: Honorable J. Bennett Johnston

United States
Office of Government Ethics
P.O. Box 14108
Washington, D.C. 20044

AUG 20 1986

SENATE COMMITTEE ON
ENERGY AND NATURAL RESOURCES
RECEIVED
AUG 25 1986
WASHINGTON, D.C. 20510

Honorable James A. McClure
Chairman, Committee on Energy
and Natural Resources
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

In accordance with the Ethics in Government Act of 1978, I enclose a copy of the financial disclosure report filed by Martha O. Hesse, who has been nominated by President Reagan for the position of Chairman, Federal Energy Regulatory Commission.

We have reviewed the report and have also obtained advice from the Federal Energy Regulatory Commission concerning any possible conflict in light of the Commission's functions and the nominee's proposed duties. Based thereon, we believe that Ms. Hesse is in compliance with applicable laws and regulations governing conflicts of interest.

Sincerely,

David H. Martin

David H. Martin
Director

Enclosure

Reporting Period: 1/1/85 - 5/15/86

Financial Disclosure Report

Form Approved OMB No. 3209-0060

Reporting Status (Check Appropriate Box)			Agency Use Only	OGE Use Only	Date of Appointment, Candidacy, Election or Nomination (Mo., Day, Yr.)	Termination Date (If Applicable) (Month, Day, Year)
☐ Incumbent	☒ New Entrant, Nominee, or Candidate	☐ Termination Filer		AUG 7 1986		
Reporting Individual's Name	Last Name: Hesse		First Name and Middle Initial: Martha O.			
Position for Which Filing	Title of Position: Chairman/Commissioner		Department or Agency (If Applicable): Federal Energy Regulatory Commission			
Location of Present Office	Address (Number, Street, City, State and ZIP Code): 1000 Independence Avenue, S.W. Washington, D.C. 20585		Telephone No. (Include Area Code): (202) 252-8010			
Position(s) Held With the Federal Government During the Preceding 12 Months (If Not Same as Above)	Title of Position(s) and Date(s) Held: Assistant Secretary (Management and Administration Department of Energy - December 1982 to Present					
Presidential Nominees Subject to Senate Confirmation	Name of Congressional Committee Considering Nomination: Energy and Natural Resources		Do You Intend to Create a Qualified Diversified Trust? ☐ Yes ☒ No			

Certification	Signature of Reporting Individual	Date (Month, Day, Year)
I CERTIFY that the statements I have made on this form and all attached schedules are true, complete and correct to the best of my knowledge and belief.	Martha Hesse	6/5/86
Other Review (If desired by agency)	Signature of Other Reviewer	Date (Month, Day, Year)
Agency Ethics Official's Opinion	Signature of Designated Agency Ethics Official/Reviewing Official	Date (Month, Day, Year)
The information contained in this report discloses no conflict of interest under applicable laws and regulations.	Michael Schuyler	8/7/86
Office of Government Ethics Use Only 5 C.F.R. 2634.605 8-11-86	Signature	Date (Month, Day, Year)
	David H. Martin OGE	8/20/86

Comments of Reviewing Officials (If additional space is required, use the reverse side of this sheet)

* Added pursuant to telephone conversation of 8/19/86 with reporting individual. MJG.

(Check box if comments are continued on the reverse side) ☐

Reporting Periods

Incumbents: Complete Schedules A, B, C, and Part I of D. The reporting period is the preceding calendar year except for Part II of Schedule C and Part I of Schedule D where you must also include any positions held or agreements or arrangements made from the beginning of the filing year until the date you file.

Termination Filers: Complete Schedules A, B, C, and Part I of D. The reporting period begins at the end of the period covered by your previous filing and ends at the date of termination.

Nominees, New Entrants and Candidates for President and Vice President: Complete Schedules A, C, and D. (Candidates do not file Part II of Schedule D.)

- **Schedule A**—The reporting period for income (BLOCK C) and Transactions Test (BLOCK D) is the preceding calendar year and the current calendar year up to the date of filing. Value assets in BLOCK B as of any date you choose that is within 31 days of the date of filing.
- **Schedule C, Part I** (Liabilities)—The reporting period is the preceding calendar year and the current calendar year up to any date you choose that is within 31 days of the date of filing.
- **Schedule C, Part II** (Agreements and Arrangements)—Show any agreements or arrangements as of the date of filing.
- **Schedule D**—The reporting period is the preceding **two** calendar years and the current calendar year up to the date of filing.

Form approved
OMB No. 3209-0001

Reporting Individual's Name: Martha Ossian Hesse

Assets and Income

Page Number: 2

Schedule A

All Filers: In BLOCK A report (a) the identity of each asset held for the production of income at the close of the reporting period which had a fair market value exceeding $1000 and (b) any other asset or source of income which generated over $100 in income during the reporting period. This includes but is not limited to employers, stocks, bonds, tax shelters, bank accounts, real property, mutual funds, pensions, IRA assets, assets of certain trusts, commodities futures, personal businesses and partnership interests. Exclude your personal residence unless you rent it out. See instructions for rules on bank accounts and complex holdings.

All Filers: In BLOCK B report the value of each asset listed in BLOCK A which had a fair market value exceeding $1000 at the close of the reporting period.

All Filers: In BLOCK C report the type and amount of income exceeding $100 or more received from the assets and other sources of income listed in BLOCK A. You must report the **actual amount** of any income not of a type specifically noted below. You need not report the actual amount of your spouse's earned income, only the source in BLOCK A. You may not check "qualified trust" unless you have a blind trust which has been specifically approved by the Office of Government Ethics. If you, your spouse or dependent child are the beneficiary of a trust which no one of you created and has no knowledge of the assets, refer to the instructions to see if it qualifies as an "excepted trust." If "none" (or less than $101) is checked under Category of Amount of Income, no other entries need be made in BLOCK C for that item.

Incumbents and Termination Filers only: In BLOCK D, for any real property, stocks, bonds, commodities futures and other securities listed in BLOCK A, did you purchase, sell, or exchange the item during the reporting period for a value that exceeds $1000?

BLOCK A Assets & Income Sources	BLOCK B Valuation of Assets							BLOCK C Income																		BLOCK D Transactions Test	
Identify each asset and income source of yours, your spouse(S) and your dependent child (DC). NONE ☐	Category of Value (X)							Type of Income (X)							Category of Amount of Income (X)									Actual Amount Only if "Other" Specified	Date (Mo., Day, Yr.) Only if Honoraria	If you, complete Schd. B Part I for these assets including those sold for a loss.	
	None (or less than $1001)	$1,001-$15,000	$15,001-$50,000	$50,001-$100,000	$100,001-$250,000	Over $250,000	Dividends	Rent	Interest	Capital Gains	Excepted Trust	Qualified Trust	Other (Specify Type)	None (or less than $101)	$101-$1,000	$1,001-$2,500	$2,501-$5,000	$5,001-$15,000	$15,001-$50,000	$50,001-$100,000	Over $100,000			YES	NO
B or DC Example: X Y Z Common				X			X									X									X	
Example: Doe Jones & Smith, Hometown, USA			X										ptnrshp income									$50,000			
1 Cash - Riggs Nat'l Bank			X											X												
2 Art & Antiques						X								X												
3 Jewelry (Precious) (Stones)					X									X												
4 Pebble Hill owns Rental Apts. in San Antonio, TX Investors, Ltd.						X								X												
5 Equifund L.P. - equipment leasing			X											X												
6 Delaware Cash Reserves			X						X								X									
7 Merrill Lynch Ready Asset				X					X								X									
8 612 "C" Street, S.E. Washington, D.C.						X								X												
9 2700 Virginia Ave. NW Washington, D.C.							X	X											X							
10 Stanley Platos, Ltd. New York, New York - computer rental				X										X												

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270-299

FPM Chapter 734
U.S. Office of Personnel Management

Form Approved
OMB No. 3206-0160

Reporting Individual's Name	Assets and Income	Page Number	3	Schedule A
Martha Ossian Hesse				

All Filers: In BLOCK A report (a) the identity of each asset held for the production of income at the close of the reporting period which had a fair market value exceeding $1000 and (b) any other asset or source of income which generated over $100 in income during the reporting period. This includes but is not limited to employers, stocks, bonds, tax shelters, bank accounts, real property, mutual funds, pensions, IRA assets, assets of certain trusts, commodities futures, personal businesses and partnership interests. Exclude your personal residence unless you rent it out. See instructions for rules on bank accounts and complex holdings.

All Filers: In BLOCK B report the value of each asset listed in BLOCK A which had a fair market value exceeding $1000 at the close of the reporting period.

All Filers: In BLOCK C report the type and amount of income exceeding $100 or more received from the assets and other sources of income listed in BLOCK A. You must report the **actual amount** of any income not of a type specifically noted below. You need not report the actual amount of your spouse's earned income, only the source in BLOCK A. You may not check "qualified trust" unless you have a blind trust which has been specifically approved by the Office of Government Ethics. If you, your spouse or dependent child are the beneficiary of a trust which no one of you created and has no knowledge of the assets, refer to the instructions to see if it qualifies as an "excepted trust." If "none" (or less than $101) is checked under Category of Amount of Income, no other entries need be made in BLOCK C for that item.

Incumbents and Termination Filers only: In BLOCK D, for any real property, stocks, bonds, commodities futures and other securities listed in BLOCK A, did you purchase, sell, or exchange the item during the reporting period for a value that exceeds $1000?

BLOCK A Assets & Income Sources	BLOCK B Valuation of Assets	BLOCK C Income	BLOCK D Transactions Test

Identify each asset and income source of yours, your spouse(S) and your dependant child (DC).

NONE ☐

			Category of Value (X)							Type of Income (X)							Category of Amount of Income (X)										Actual Amount Only if "Other" Specified	Date (Mo., Day, Yr.) Only if Honoraria	If yes, complete Schd. B Part I for those assets including those sold for a loss.	
			None (or less than $1001)	$1,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $250,000	Over $250,000	Dividends	Rent	Interest	Capital Gains	Excepted Trust	Qualified Trust	Other (Specify Type)	None (or less than $101)	$101 - $1,000	$1,001 - $2,500	$2,501 - $5,000	$5,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $1,000,000	Over $1,000,000			YES	NO
S or DC	Examples	X Y Z Commun			X				X									X										X	
		Doe Jones & Smith, Hometown, USA		X											ptnrshp income										$50,000			
1	Gerald L. McManis					X									Debt Repayment	(purchase of 612 C Street, S.E.)						X			$34,000			
2	American Motors		X													X												
3	BGS Systems, Ltd.			X												X												
4	Cetus Corporation				X											X												
5	HPSC			X												X												
6	Audio Video Affiliates, Inc.		X													X												
7	Telecom Plus Int'l, Inc.			X												X												
8	America West Airlines, Inc.			X												X												
9	Seagate Technology			X												X												
10	St. Joe Gold Corp.		X													X												

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Reporting Individual's Name: Martha Ossian Hesse

Assets and Income

Page Number: 4

Schedule A

All Filers: In BLOCK A report (a) the identity of each asset held for the production of income at the close of the reporting period which had a fair market value exceeding $1000 and (b) any other asset or source of income which generated over $100 in income during the reporting period. This includes but is not limited to employers, stocks, bonds, tax shelters, bank accounts, real property, mutual funds, pensions, IRA assets, assets of certain trusts, commodities futures, personal businesses and partnership interests. Exclude your personal residence unless you rent it out. See instructions for rules on bank accounts and complex holdings.

All Filers: In BLOCK B report the value of each asset listed in BLOCK A which had a fair market value exceeding $1000 at the close of the reporting period.

All Filers: In BLOCK C report the type and amount of income exceeding $100 or more received from the assets and other sources of income listed in BLOCK A. You must report the actual amount of any income not of a type specifically noted below. You need not report the actual amount of your spouse's earned income, only the source in BLOCK A. You may not check "qualified trust" unless you have a blind trust which has been specifically approved by the Office of Government Ethics. If you, your spouse or dependent child are the beneficiary of a trust which no one of you created and has no knowledge of the assets, refer to the instructions to see if it qualifies as an "excepted trust." If "none" (or less than $101) is checked under Category of Amount of Income, no other entries need be made in BLOCK C for that item.

Incumbents and Termination Filers only: In BLOCK D, for any real property, stocks, bonds, commodities futures and other securities listed in BLOCK A, did you purchase, sell, or exchange the item during the reporting period for a value that exceeds $1000?

BLOCK A Assets & Income Sources	BLOCK B Valuation of Assets								BLOCK C Income																		BLOCK D Transactions Test	
Identify each asset and income source of yours, your spouse($) and your dependent child (DC). NONE ☐	Category of Value (X)								Type of Income (X)								Category of Amount of Income (X)										If yes, complete Schedule B, Part I for those assets including those sold for a loss.	
	Assets for less than $1001	$1,001-$15,000	$15,001-$50,000	$50,001-$100,000	$100,001-$250,000	$250,001-$500,000	$500,001-$1,000,000	Over $1,000,000	Dividends	Rent	Interest	Capital Gains	Excepted Trust	Qualified Trust	Other (Specify Type)	None (or less than $101)	$101-$1,000	$1,001-$2,500	$2,501-$5,000	$5,001-$15,000	$15,001-$50,000	$50,001-$100,000	Over $100,000	Actual Amount Only if "Other" Specified	Date (Mo., Day, Yr.) Only if Honoraria	YES	NO
$ or DC: Examples: X Y Z Common / Doe Jones & Smith, Hometown, USA			X	X					X									X						$50,000		X	
															partnership income												
1 Damon Biotech, Inc.	X															X											
2 Preferred Health Care			X													X											
3 Investors GNMA Mtg. Backed Securities (Shearson Fund)				X					X											X							
4 Jefferies Group, Inc.				X												X											
5 Rogers Cablesystems of America		X														X											
6																											
7																											
8																											
9																											
10																											

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U.S. Office of Personnel Management

Reporting Individual's Name
Martha Ossian Hesse

Page Number	5	Schedule V B

Part I
Transactions

Incumbents and Termination Filers only: Report any purchase, sale or exchange by you, your spouse or dependent child during the reporting period of any real property, stocks, bonds, commodities futures, and other securities when the amount of the transaction exceeded $1,000. Include transactions that resulted in a loss. Do not report a transaction involving property used solely as your personal residence, or a transaction between you, your spouse or your dependent child.

NONE ☐

			Type of Transaction (X)				Amount of Transaction (X)					
	Identification of Asset	Purchase	Sale	Exchange	Date (Mo., Day, Yr.)	$1,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $250,000	Over $250,000
1	X Y Z Common	X			2/1/93		X			
2	Not applicable									
3										
4										
5										
6										

Part II
Gifts, Reimbursements and Travel Expenses

Incumbents and Termination Filers only: Report the source, a brief description and the value of: (1) in-kind gifts of transportation, lodging, food or entertainment received from one source totaling $250 or more unless received as personal hospitality at the donor's personal or family residence; (2) other gifts received from one source totaling $100 or more in value; and (3) cash reimbursements of $250 or more received from one source. Exclude gifts and reimbursements received by your spouse that were given totally independent of their relationship to you. **Exclude** transportation, lodging, food and reimbursements from the U.S. Government. For (1) and (2), **exclude** gifts from relatives and **exclude** gifts of $35 or less when aggregating them for the total from one source. See instructions for further exclusions.

NONE ☐

	Source (Name and Address)	Brief Description	Value
1	Nat'l Assn. of Real Collectors, NY, NY	Airline ticket, hotel room & meals incident to national conference 8/15/93	$500
2	Nat'l Assn. of Real Collectors, NY, NY	Leather briefcase for retiring president	$126
3	Not applicable		
4			
5			
6			

5CFR Chapter XIV
U.S. Office of Personnel Management

Reporting Individual's Name: Martha Ossian Hesse

Page Number	6	Schedule C

Part I
Liabilities

All Filers: Report liabilities over $10,000 owed to any one creditor at any time during the reporting period by you, your spouse or dependent child. Check the highest amount owed during the reporting period. **Exclude** a mortgage on your personal residence unless it is rented out, loans secured by automobiles, household furniture or appliances, and liabilities owed to relatives. See instructions for revolving charge accounts.

NONE ☐

	Creditor (Name and Address)	Type of Liability	Date Incurred	Interest Rate	Term if applicable	Category of Amount or Value (X) $10,001 to $15,000	$15,001 to $50,000	$50,001 to $100,000	$100,001 to $250,000	Over $250,000
D of DC	Example: First District Bank, Washington, DC John Jones, 123 J St. Washington, DC	Mortgage on rental property, Rehoboth Beach, Delaware Promissory note	1981 1979	13% 10%	20 yrs. or demand	X		X		
1	Interstate Federal Savings and Loan Washington, D.C.	612 "C" Street, S.E. Washington, D.C.	Dec. 1982	12%	30 yrs			x		
2	Miriam H. Smith Washington, D.C.	2700 Virginia Avenue, N.W. Washington, D.C.	March 1982	12%	10 yrs			x		
3										
4										
5										
6										

Part II
Agreements Or Arrangements

All Filers: Report your agreements or arrangements for future employment, leaves of absence, continuation of payment by a former employer (including severance payments), or continuing participation in an employee benefit plan. See instructions regarding the reporting of negotiations for any of these arrangements or benefits.

NONE ☒

	Status and Terms of any Agreement or Arrangement	Parties	Date (Mo., Yr.)
Example:	Pursuant to partnership agreement, will receive capital account & partnership share calculated on service performed through 11/83	Doe Jones & Smith, Home town, USA	7/75 ponership agmnt.

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278-108

OPM Chapter 735
U.S. Office of Personnel Management

Reporting Individual's Name
Martha Ossian Hesse

Page Number	7	Schedule D

Part I
Positions Held Outside U.S. Government

All Filers: Report any positions held during the applicable reporting period. Positions include but are not limited to those of an officer, director, trustee, general partner, proprietor, representative, employee or consultant of any corporation, firm, partnership, or other business enterprise or any non-profit organization or educational institution.

Exclude positions with religious, social, fraternal, or political entities or those solely of an honorary nature.

NONE ☐

Organization (Name and Address)	Type of Organization	Position Held	From (Mo., Yr.)	To (Mo., Yr.)
Examples: Nat'l Assn. of Rock Collectors, NY, NY	Non-profit education	President	6/82	6/83
Examples: Doe Jones & Smith, Hometown, USA	Law firm	Partner	7/75	11/83
Stanley Platos, Ltd. New York, New York	Women's Fashion Couture House	Officer/Director	3/86	5/86

Part II
Compensation In Excess Of $5000 Paid by One Source

Nominees and New Entrants only: Report sources of such compensation received by you or your business affiliation for services directly provided by you during the reporting period. This includes the names of clients and customers of any corporation, firm, partnership or other business enterprise, or any nonprofit organization, when you directly provided the services generating a fee or payment of more than $5,000. You need not report the U.S. Government as a source.

NONE ☒

Source (Name and Address)	Brief Description of Duties
Examples: Doe Jones & Smith, Hometown, USA	Legal services
Examples: Metro University (client of Doe Jones & Smith) Hometown, USA	Legal services in connection with university construction

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278-109

FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

AUG 7 1986

Honorable Martha O. Hesse
Assistant Secretary
Management and Administration
Department of Energy
1000 Independence Avenue, SW.
Washington, DC 20585

Dear Ms. Hesse:

This letter serves as the statement from the Designated Agency Ethics Counselor of this Commission required by question six (page five) of the Statement for Completion by Presidential Nominees that you are submitting to the United States Senate Committee on Energy and Natural Resources. I have reviewed your Standard Form 278 (Financial Disclosure Report), dated June 5, 1986, and have issued my opinion to David H. Martin, Director, Office of Government Ethics, that the Form discloses no conflicts of interest under the Department of Energy Organization Act (DOE Act), P. L. 95-91, the Commission's Standards of Conduct (18 C.F.R. §§ 3c.201-206) or the conflict of interest provisions generally applicable to Federal Government officials.

Section 602(a) of the DOE Act prohibits supervisory employees from knowingly receiving compensation from, holding any official relation with, or having any pecuniary interest in any energy concern. The term "energy concern" is defined in Section 601(b) of the DOE Act to include any entity "significantly engaged in the business" of energy development, extraction, production, refining, transportation, distribution or sale, or significantly engaged in conducting research and development related to these activities, or in research, development or demonstration under a DOE-funded program. The term also includes any entity holding an interest in property from which coal, natural gas, crude oil, nuclear material or a renewable resource is commercially produced or obtained.

Further, Section 208, Title 18, United States Code, and applicable Commission regulations, 18 C.F.R. § 3c.204(b)(3), prohibit a government official from participating personally and substantially in any particular matter in which she, her spouse, minor child, partner, or organization in which she is serving as officer, director, trustee, partner, or employee, has a financial interest, or in which a prospective employer has a

financial interest. This provision has been interpreted to prohibit participation in any particular matter whose effect on the relevant financial interest would be direct and predictable.

If I may be of further assistance, please let me know.

Sincerely,

Michael Schopf
Associate General Counsel
Enforcement & General Law

Enclosure

cc: Senate Committee on
Energy and Natural Resources

JAMES ALLEN WAMPLER

James Allen Wampler, of Centralia, Illinois, is currently Vice Chancellor of Administration at Illinois Eastern Community Colleges in Olney, a position which includes responsibilities for the District's mining program, all human resource functions, facilities managment, and economic development. In addition, he is Associate Executive Director of the IECC International Institute.

Previously, he served the college district as Dean of Mining at Wabash Valley College, administering the college's six mining schools.

From 1980 to 1982, Mr. Wampler was Vice President of a Texas business communications firm, NPL Incorporated, where his duties included establishment and operation of the Washington, D.C., office.

In 1979, he was appointed Deputy Director of Labor-Management Relations for the President's Commission on Coal in Washington, D.C., serving as a coal consultant and establishing a tripartite task force of labor, management and government representatives to address regulatory issues.

From 1976 to 1979, Mr. Wampler was Vice President of Training and Development for the Bituminous Coal Operators' Association, Incorporated, Washington, D.C. Here, his work included the development of an industry-wide program in all areas of human resource development, plus representing the trade association in federal regulatory matters.

In addition, Mr. Wampler has held the various positions of Chief Maintenance Foreman, Division Supervisor of Training and Corporate Manager of Training and Development for the Island Creek Coal Company, Lexington, Kentucky, (1970-76); Job Supervisor for Hercules Incorporated, Radford Army Arsenal, Radford, Virginia (1968-70); Highway Construction Inspector for the State of West Virginia (1966-68); and teacher in the McDowell County Public Schools of Virginia (1965-66).

Mr. Wampler was born in the small coal mining town of Bartley, West Virginia, in 1944. His educational background includes an associate degree in electrical engineering technology from Bluefield State College (1965) and a bachelor's degree from the same college (1985).

He was an invited observer at a meeting of the International Labor Organization in Cartagena, Columbia, in 1984; served on the Reagan/Bush Inaugural Committee in 1980/1981; served as a member of the Department of Interior's Task Force to evaluate mining productivity and training in England, Germany and Poland in 1977; and served as a management representative for the Secretary of Labor's Advisory Committee for Health and Safety Training Regulations in 1978.

UNITED STATES SENATE
COMMITTEE ON ENERGY AND NATURAL RESOURCES
STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

Name: Wampler (LAST) James (FIRST) Allen (OTHER)

Position to which nominated: Assistant Secretary/Fossil Energy Date of nomination: August 7, 1986

Date of birth: 23 (DAY) 09 (MONTH) 44 (YEAR) Place of birth: Bartley, West Virginia

Marital status: Married Full name of spouse: Lois Jane Chandler Wampler

Name and ages of children

James Allen, Jr.	21
Kevin Andrew	16
William Scott	13

Education:

Institution	Dates attended	Degrees received	Dates of degrees
Bluefield State College	1962-1965	AEET	1965
Bluefield, WV	1985	BA	1985

Employment record: List below all positions held since college, including the title and description of job, name of employer, location, and dates.

1984-Present: Vice Chancellor of Administration for Illinois Eastern Community Colleges, Olney, IL; 1982-84: Dean of Mining, Wabash Valley College, Centralia, IL; 1980-82: Vice President and Manager of Washington, DC Office for NPL Incorporated, Houston, TX; 1979-80: Deputy Director of Labor Management Relations (Expert Consultant Classification) for the President's Commission on Coal, Washington, DC; 1976-79: Vice President of Training and Development for the Bituminous Coal Operators Association, Washington, DC; 1976-79: Various Positions including Maintenance Foreman, Chief Maintenance Foreman, Division Supervisor of Training and Corporate Manager of Training and Development; 1970-76: Island Creek Coal Company, Lexington,KY; 1968-70: Job Supervisor (Major Projects) Hercules Inc. of the Radford Army Arsenal, Radford, VA;

Employment record—Continued

1966-68: Highway Inspector State of WV; 1965-66:
Science Teacher, McDowell Co., WV Public Schools

Military service: Describe any military service not listed above, including dates, rank, and type of discharge.

None

Honors and awards: List below all scholarships, fellowships, honorary degrees, military medals, honorary society memberships, and any other special recognitions for outstanding service or achievement.

None

Memberships: List below all memberships and offices held in professional, fraternal, business, scholarly, civic, charitable and other organizations.

Organization	Dates	Office held (if any)
National Coal Museum	1984-Present	Member of Board of Directors
American Mgmt. Assoc.	1985-Present	None
Kentucky Colonel	1977-Present	None
IECC International Inst.	1985-Present	Associate Exec. Director

Published writings:

List the titles, publishers and dates of any books, articles, or reports you have written.

"Breaking the Vicious Cycle of Coal Mine Non-Productivity" 1980, University of Louisville School of Law, Louisville, KY

"Bigger Budgets for Training" 1980, Colorado School of Mines, Golden, CO

"Management's View on Miner Education" 1978, Southern Illinois University, Carbondale, IL

"Joint Industry Training Programs" 1978, American Mining Congress

"BCOA/NCA Training Programs" 1977, Colorado School of Mines, Golden, CO

Future employment relationships:

1. Will you sever all connections with your present employer, business firm, association or organization if you are confirmed by the Senate?

Yes, except for a tentative arrangement which would permit me to return to IECC upon completion of assignment. I have, however, not entered into a contract to return.

2. Do you have any plans after completing government service to resume employment, affiliation or practice with your current or any previous employer, business firm, association or organization?

Yes, as indicated in response to previous question.

3. Has a commitment for employment after you leave government been made to you by anyone? Have you made any such commitment?

I have requested and been tentatively granted professional leave for government service from my current employer.

4. (a) If you have been appointed for a fixed term, do you expect to serve the full term?

Not applicable

Future employment relationships—Continued

(b) If you have been appointed for an indefinite term, are there any known limitations on your willingness or ability to serve for the foreseeable future?

No

Financial statement:

1. Attach a copy of your Executive Personnel Financial Disclosure Report (SF 278).

2. List sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services and firm memberships or from former employers, clients, and customers. Amounts should be indicated by the categories established for reporting income on Form SF 278, Schedule A.

Illinois Eastern Community Colleges October and November 1986, accrued vacation - $5,001-$15,000

State Universities Retirement System December, 1986 - $5,001-$15,000

3. Are you currently a party to any legal action? If so, describe its nature and status.

No

4. Have you ever declared bankruptcy? If so, describe the circumstances.

No

5. Have you filed a Federal income tax return for each of the last 10 years? If not, please explain.

Yes

6. Has the Internal Revenue Service ever audited your Federal tax return? If so, what resulted from the audit?

Yes. Audit in 1978 for the years of 1976 and 1977 resulted in the IRS not allowing accelerated depreciation on a rental property. I paid taxes due immediately.

Potential conflicts of interest:

1. List any investments, obligations, liabilities, or other relationships which might involve potential conflicts of interest with the position to which you have been nominated.

International Computing Consultants, Inc.-Officer & Directo:

National Coal Museum - Director

Illinois Eastern Community Colleges (IECC)-Vice Chancellor

IECC International Institute-Associate Executive Director

2. Describe any business relationship, dealing or financial transaction (other than taxpaying) that you have had during the last 10 years with the Federal Government, whether for yourself or relatives, on behalf of a client, or acting as an agent, which might in any way constitute or result in a possible conflict of interest with the position to which you have been nominated.

None

3. Describe any lobbying activity which you have performed during the past 10 years with respect to legislative or administrative actions at the Federal, State or local level.

Did not participate in any legislative advocacy before Congress and am not a registered lobbyist. I have, however represented various interests and submitted testimony on regulatory matters particularly at the Department of the Interior and Department of Labor during the years from 1974 through 1979. Additionally, in my current position and on behalf of my current employer I have sought Federal contracts and grants from 1980 to present.

4. Have you been informed of the conflict of interest laws and regulations applicable to the position to which you have been nominated?

Yes

Potential conflicts of interest—Continued

5. Explain how you will resolve any potential conflict of interest that may be disclosed by your responses to this form and the attachments thereto. Attach a statement of the appropriate agency ethics official explaining the applicable laws or regulations, any potential conflicts, and the action required to resolve such conflicts.

I am resigning my positions with International Computing Consultants, Inc and the National Coal Museum. For the period of my Government service, I will recuse myself from participation in any matter that could directly affect IECC or IECC International Institute, from which I will be on leav without pay.

6. Explain how you will resolve any potential conflicts of interest that may arise in the future if you are confirmed for the position for which you have been nominated.

I will avoid participation in any particular matter the outcome of which could have a direct and predictable effect on any entity in which I have financial interest, including those (listed in question 5) with respect to which I am in a leave without pay status. I will also continue to see and comply with the advice of the Office of General Counsel of the Department of Energy.

Public disclosure: Do you have any objections to this form and the attachments thereto being made public?

No

AFFIDAVIT

I, James Alan Watkins, being duly sworn, hereby state that I have read the foregoing Statement for Completion by Presidential Nominees, including all attachments thereto, and that the information provided therein is, to the best of my knowledge and belief, current, accurate, and complete.

James Alan Watkins
(Signature of Nominee)

Subscribed and sworn to before me this 4TH day of SEPTEMBER, 1986

John H. Gates
Notary Public
My Commission expires April 30, 1990

Form approved by the Committee February 5, 1985.

U.S. GOVERNMENT PRINTING OFFICE : 1986—43-085

64-547 O - 86 - 3

Department of Energy
Washington, DC 20585

The Honorable James A. McClure
Chairman
Committee on Energy and Natural Resources
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

Please be advised that, pursuant to section 201(b) of the Ethics in Government Act of 1978, as amended, I have informed the appropriate ethics officials that the information required by section 202(a)(1)(A) with respect to income and honoraria is current as of Friday, September 5, 1986, except that I have received $12,000 in additional salary payments from the Illinois Eastern Community Colleges. This date is within five days prior to the date of the first hearing to consider my nomination.

Sincerely yours,

James A. Wampler

Washington, District of Columbia ss

Subscribed and sworn to before me this 8th day of

September, 19 86.

Notary Public
My Commission expires April 30, 1990

cc: The Honorable J. Bennett Johnston

United States
Office of Government Ethics
P.O. Box 14108
Washington, D.C. 20044

SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES
AUG 28 1986
RECEIVED
SEP 02 1986
WASHINGTON D.C. 20510

Honorable James A. McClure
Chairman, Committee on Energy
and Natural Resources
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

In accordance with the Ethics in Government Act of 1978, I enclose a copy of the financial disclosure report filed by James A. Wampler, who has been nominated by President Reagan for the position of Assistant Secretary for Fossil Energy, Department of Energy.

We have reviewed the report and have also obtained advice from the Department of Energy concerning any possible conflict in light of the Department's functions and the nominee's proposed duties. Based thereon, we believe that Mr. Wampler is in compliance with applicable laws and regulations governing conflicts of interest.

Sincerely,

David H. Martin
Director

Enclosure

Financial Disclosure Report

Reporting Status (Check Appropriate Box)			Agency Use Only	OGE Use Only	Date of Appointment, Candidacy, Election or Nomination (Mo., Day, Yr.)	Termination Date (If Applicable) (Month, Day, Year)
☐ Incumbent	☒ New Entrant, Nominee, or Candidate	☐ Termination Filer		AUG 26 1986		

	Last Name	First Name and Middle Initial
Reporting Individual's Name	Wampler	James A.
Position for Which Filing	Title of Position	Department or Agency (If Applicable)
	Assistant Secretary for Fossil Energy	Department of Energy
Location of Present Office	Address (Number, Street, City, State and ZIP Code)	Telephone No. (Include Area Code)
	233 E. Chestnut, Olney, IL 62450	618-393-2982
Position(s) Held With the Federal Government During the Preceding 12 Months (If Not Same as Above)	Title of Position(s) and Date(s) Held	
	None	

Presidential Nominees Subject to Senate Confirmation	Name of Congressional Committee Considering Nomination	Do You Intend to Create a Qualified Diversified Trust?
	Senate Energy and Natural Resources	☐ Yes ☒ No

Certification		
I CERTIFY that the statements I have made on this form and all attached schedules are true, complete and correct to the best of my knowledge and belief.	Signature of Reporting Individual	Date (Month, Day, Year)
	James A. Wampler	6-5-86
Other Review (If desired by agency)	Signature of Other Reviewer	Date (Month, Day, Year)
Agency Ethics Official's Opinion	Signature of Designated Agency Ethics Official (Reviewing Official)	Date (Month, Day, Year)
The information contained in this report discloses no conflict of interest under applicable laws and regulations.	Roger D. Zoesenberg	8/22/86
Office of Government Ethics Use Only	Signature	Date (Month, Day, Year)
	David O Mair	8-28-86

Comments of Reviewing Official: (If additional space is required, use the reverse side of this sheet)

* Added pursuant to telephone conversation of 6/17/86 with reporting individual.

Mr. Wampler has agreed to recuse himself from any matter that would directly affect Illinois Eastern Community Colleges or its constituent units. He has also informed this office that he will resign his positions with the National Coal Museum and Subcontracting Consultants, Inc., and that he will divest himself of stock in the latter company, before he assumes the position of Assistant Secretary for Fossil Energy. (The stock is not reportable on Schedule A because it falls below the reporting thresholds.) BT 8-28-86

Reporting Periods

Incumbents: Complete Schedules A, B, C, and Part I of D. The reporting period is the preceding calendar year except for Part II of Schedule C and Part I of Schedule D where you must also include any positions held or agreements or arrangements made from the beginning of the filing year until the date you file.

Termination Filers: Complete Schedules A, B, C, and Part I of D. The reporting period begins at the end of the period covered by your previous filing and ends at the date of termination.

Nominees, New Entrants and Candidates for President and Vice President: Complete Schedules A, C, and D. (Candidates do not file Part II of Schedule D.)

- **Schedule A**—The reporting period for income (BLOCK C) and Transactions Test (BLOCK D) is the preceding calendar year and the current calendar year up to the date of filing. Value assets in BLOCK B as of any date you choose that is within 31 days of the date of filing.
- **Schedule C, Part I (Liabilities)**—The reporting period is the preceding calendar year and the current calendar year up to any date you choose that is within 31 days of the date of filing.
- **Schedule C, Part II (Agreements and Arrangements)**—Show any agreements or arrangements as of the date of filing.
- **Schedule D**—The reporting period is the preceding two calendar years and the current calendar year up to the date of filing.

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Reporting Individual's Name	Assets and Income	Page Number	2	Schedule A
Wampler, James A.				

All Filers: In BLOCK A report (a) the identity of each asset held for the production of income at the close of the reporting period which had a fair market value exceeding $1000 and (b) any other asset or source of income which generated over $100 in income during the reporting period. This includes but is not limited to employers, stocks, bonds, tax shelters, bank accounts, real property, mutual funds, pensions, IRA assets, assets of certain trusts, commodities futures, personal businesses and partnership interests. Exclude your personal residence unless you rent it out. See instructions for rules on bank accounts and complex holdings.

All Filers: In BLOCK B report the value of each asset listed in BLOCK A which had a fair market value exceeding $1000 at the close of the reporting period.

All Filers: In BLOCK C report the type and amount of income exceeding $100 or more received from the assets and other sources of income listed in BLOCK A. You must report the **actual amount** of any income not of a type specifically noted below. You need not report the actual amount of your spouse's earned income, only the source in BLOCK A. You may not check "qualified trust" unless you have a blind trust which has been specifically approved by the Office of Government Ethics. If you, your spouse or dependent child are the beneficiary of a trust which no one of you created and has no knowledge of the assets, refer to the instructions to see if it qualifies as an "excepted trust." If "none" (or less than $101) is checked under Category of Amount of Income, no other entries need be made in BLOCK C for that item.

Incumbents and Terminated Filers only: In BLOCK D, for any real property, stocks, bonds, commodities futures and other securities listed in BLOCK A, did you purchase, sell, or exchange the item during the reporting period for a value that exceeds $1000?

BLOCK A Assets & Income Sources		BLOCK B Valuation of Assets								BLOCK C Income																BLOCK D Transactions Test	
Identify each asset and income source of yours, your spouse(S) and your dependent child (DC). NONE ☐		Category of Value (X)								Type of Income (X)						Other (Specify Type)	Category of Amount of Income (X)									Actual Amount Only if "Other" Specified	Date (Mo., Day, Yr.) Only if Honoraria	If yes, complete Schd. B Part I for those assets including those sold for a loss.	
		None (or less than $1001)	$1,001-$15,000	$15,001-$50,000	$50,001-$100,000	$100,001-$250,000	Over $250,000	Dividends	Rent	Interest	Capital Gains	Excepted Trust	Qualified Trust		None (or less than $101)	$101-$1,000	$1,001-$2,500	$2,501-$5,000	$5,001-$15,000	$15,001-$50,000	$50,001-$100,000	Over $100,000			YES	NO
S or DC	Examples: XYZ Common Stock				X			X										X								X	
	Case Jewes & Smith, Hometown, USA			X												partnership income								$50,000			
1	Illinois Eastern Community Colleges															Salary						X		70,208			
2	Kaskaskia College															Spouse Salary											
3	MMDA Account - Community Trust Bank, Irvington, IL				X						X							X									
4																											
5																											
6																											
7																											
8																											
9																											
10																											

Reporting Individual's Name

Wampler, James A.

Page Number	3	Schedule B

Part I
Transactions

Incumbents and Termination Filers only: Report any purchase, sale or exchange by you, your spouse or dependent child during the reporting period of any real property, stocks, bonds, commodities futures, and other securities when the amount of the transaction exceeded $1,000. Include transactions that resulted in a loss. Do not report a transaction involving property used solely as your personal residence, or a transaction between you, your spouse or your dependent child.

NONE [X]

ID No.	Identification of Assets	Type of Transaction (X)				Amount of Transaction (X)					
		Purchase	Sale	Exchange	Date (Mo., Day, Yr.)	$1,001-$5,000	$5,001-$15,000	$15,001-$50,000	$50,001-$100,000	$100,001-$250,000	Over $250,000
Example:	1X Y Z Common	X			2/1/83			X			
1											
2											
3											
4											
5											
6											

Part II
Gifts, Reimbursements and Travel Expenses

Incumbents and Termination Filers only: Report the source, a brief description and the value of: (1) in-kind gifts of transportation, lodging, food or entertainment received from one source totaling $250 or more unless received as personal hospitality at the donor's personal or family residence; (2) other gifts received from one source totaling $100 or more in value; and (3) cash reimbursements of $250 or more received from one source. Exclude gifts and reimbursements received by your spouse that were given totally independent of their relationship to you. Exclude transportation, lodging, food and reimbursements from the U.S. Government. For (1) and (2), exclude gifts from relatives and exclude gifts of $35 or less when aggregating them for the total from one source. See instructions for further exclusions.

NONE [X]

ID No.	Source (Name and Address)	Brief Description	Value
Example:	Nat'l Assn. of Rock Collectors, NY, NY	Airline ticket, hotel room & meals incident to national conference 6/15/83	$500
Example:	Nat'l Assn. of Rock Collectors, NY, NY	Leather briefcase for retiring president	$125
1			
2			
3			
4			
5			
6			

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U.S. Office of Personnel Management

Reporting Individual's Name	Page Number		Schedule
Wampler, James A.	4		C

Part I
Liabilities

All Filers: Report liabilities over $10,000 owed to any one creditor at any time during the reporting period by you, your spouse or dependent child. Check the highest amount owed during the reporting period. **Exclude** a mortgage on your personal residence unless it is rented out, loans secured by automobiles, household furniture or appliances, and liabilities owed to relatives. See instructions for revolving charge accounts.

NONE [X]

	Creditor (Name and Address)	Type of Liability	Date Incurred	Interest Rate	Term if applicable	Category of Amount or Value (X)				
						$10,001 to $15,000	$15,001 to $50,000	$50,001 to $100,000	$100,001 to $250,000	Over $250,000
S or DC	Examples: First District Bank, Washington, DC	Mortgage on rental property, Rehoboth Beach, Delaware	1981	13%	28 yrs.			X		
	John Jones, 123 J St., Washington, DC	Promissory note	1979	10%	on demand	X				
1										
2										
3										
4										
5										
6										

Part II
Agreements Or Arrangements

All Filers: Report your agreements or arrangements for future employment, leaves of absence, continuation of payment by a former employer (including severance payments), or continuing participation in an employee benefit plan. See instructions regarding the reporting of negotiations for any of these arrangements or benefits.

NONE [ ]

	Status and Terms of any Agreement or Arrangement	Parties	Date (Mo., Yr.)
Examples:	Pursuant to partnership agreement, will receive capital account & partnership share calculated on service performed through 11/83	Doe Jones & Smith, Home town, USA	7/78 ptnership agmnt.
	Currently requesting approval from Board of Trustees for a two year Professional Leave	Illinois Eastern Community Colleges	6-86
	without pay but with the continuation of medical benefits.	Olney, Illinois	

Reporting Individual's Name
Wampler, James A.

Page Number	5	Schedule D

Part I
Positions Held Outside U.S. Government

All Filers: Report any positions held during the applicable reporting period. Positions include but are not limited to those of an officer, director, trustee, general partner, proprietor, representative, employee or consultant of any corporation, firm, partnership, or other business enterprise or any non-profit organization or educational institution. Exclude positions with religious, social, fraternal, or political entities or those solely of an honorary nature.

NONE ☐

Organization (Name and Address)	Type of Organization	Position Held	From (Mo., Yr.)	To (Mo., Yr.)
E.examples: Nat'l Assn. of Rock Collectors, NY, NY	Non-profit education	President	6/82	6/83
Doe Jones & Smith, Hometown, USA	Law firm	Partner	7/75	11/83
Illinois Eastern Community Colleges [illegible]y, Illinois	Non-profit education	Vice Chancellor of Administration	5-84	Present
Illinois Eastern Community Colleges Olney, Illinois	Non-profit education	Dean of Mining	11-82	5-84
International Computing Consultants Inc. Washington, D.C.	Consulting Corporation	Director and Officer	6-85	~~6-86~~ Present
Maple Eagle Inc.	Corporation	Director and Officer	1-86	~~6-86~~ 7-86
National Coal Museum.	Non-profit education	Director	1984	Present

Part II
Compensation In Excess Of $5000 Paid by One Source

Nominees and New Entrants only: Report sources of such compensation received by you or your business affiliation for services directly provided by you during the reporting period. This includes the names of clients and customers of any corporation, firm, partnership or other business enterprise, or any nonprofit organization, when you directly provided the services generating a fee or payment of more than $5,000. You need not report the U.S. Government as a source.

NONE ☐

Source (Name and Address)	Brief Description of Duties
E.examples: Doe Jones & Smith, Hometown, USA	Legal services
Moore University (client of Doe Jones & Smith) Hometown, USA	Legal services in connection with university construction
Illinois Eastern Community Colleges, Olney, Illinois	Salary

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270-109

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United States Government Department of Energy

memorandum

DATE: AUG 22 1986

REPLY TO ATTN OF: GC-44

SUBJECT: Statement of Agency Ethics Official for Senate Committee

TO: James A. Wampler

This memorandum is intended to serve as a statement from the designated agency ethics official for this Department, as required by question 5, page 6, of the Statement for Completion by Presidential Nominees that you are submitting to the United States Senate Committee on Energy and Natural Resources in connection with your nomination for the position of Assistant Secretary for Fossil Energy. I have reviewed your Standard Form 278 (Financial Disclosure Report) dated June 5, 1986, and have certified that the information contained therein discloses no conflict of interest under applicable laws and regulations. */

As a supervisory employee of the Department, you are prohibited by section 602(a) of the DOE Organization Act (Pub. L. 95-91) from knowingly receiving compensation from, holding any official relation with, or having any pecuniary interest in any energy concern. The term "energy concern" is defined in section 601(b) of the Act as any entity "significantly engaged in the business" of any of a variety of activities related to energy production, distribution, sale, or research and development, or any entity significantly engaged in such research and development pursuant to a DOE-funded program irrespective of whether it otherwise engages in such business. The term also includes any entity holding an interest in property from which an energy resource is commercially produced or obtained.

Section 208, title 18, United States Code, prohibits you from participating personally and substantially, as a Government employee, in any particular matter in which, to your knowledge, you have or your spouse, minor child, partner, organization in which you are serving as officer, director, trustee, partner, or employee, or any person or organization with whom you are negotiating or have any arrangement concerning prospective employment has, a financial interest.

---

*/ Section 201(b) of the Ethics in Government Act (Pub. L. 95-521) requires the income and honoraria information on your

(Footnote Continued)

You indicated on Schedule C (Part II) of your Standard Form 278 that you are requesting approval of a two-year professional leave without pay, with continuation of medical benefits, from Illinois Eastern Community Colleges, your current employer. You also indicated on Schedule D (Part I) that you are a director of the National Coal Museum and a director and officer of International Computing Consultants, Inc. You have also informed my office that you hold stock in the latter company, but that its value and income fall below the reporting thresholds of Schedule A.

While it is not anticipated that any matters that would directly affect the Illinois Eastern Community Colleges will come before your office during the period of your service with the Department, to avoid any suggestion of conflict of interest, you have agreed to recuse yourself from participation, as a Government employee, in any particular matter that could directly affect the Illinois Eastern Community Colleges or its constituent units. For the same reason, you have informed this office that you will resign your positions with the National Coal Museum and International Computing Consultants, Inc., and divest yourself of your stock in the latter company, before you assume the position of Assistant Secretary for Fossil Energy.

Please let me know if I can be of further assistance.

Ralph D. Goldenberg
Assistant General Counsel
for General Law

(Footnote Continued)
form to be updated within five days before the date of the Committee hearing to consider your nomination.

APPENDIX II

Responses to Additional Questions From the Nominees

September 15, 1986

Honorable James A. McClure
Chairman
Committee on Energy and
Natural Resources
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

Enclosed please find my answers to the questions for the record from Members of the Committee.

Let me again thank you, the Members, and the staff of the Committee for the assistance and courtesies provided to me.

Please let me know if I can be of any further assistance.

Sincerely,

Martha O. Hesse

Enclosure

cc: Honorable J. Bennett Johnston
Ranking Minority Member

CHAIRMAN McCLURE

Q.1 Delays in Hydropower Development

For many years, the Commission has been criticized for its inability to process applications for hydropower projects in a timely manner. The Commission has recently initiated a procedure for reviewing the cumulative environmental impact for all projects in particular river basins. That procedure creates the potential for an even larger backlog of pending applications.

* Have you been informed of the current status of the Commission's hydropower caseload?

* What is the current situation?

* Do you intend to review the Commission's procedures and regulations for the purpose of seeking additional methods of expediting decisions on hydropower applications?

A.1 Yes, if confirmed, I intend to review the Commission's procedures and regulations for the purpose of seeking additional methods of expediting decisions on hydropower applications.

I am aware of the concern which Members of Congress and their constituents have expressed concerning delays in the processing of hydropower applications. I understand that there are now 500 license applications, 53 exemption applications and 160 preliminary permit applications pending before the Commission.

I believe that the public interest is best served when the concerns of developers and intervenors are resolved in a timely manner within the requirements of law. As a manager and administrator, I intend to bring all of my skills to bear in making the efficiency of the hydroelectric power regualtory program a high priority if I am confirmed to serve on the Federal Energy Regulatory Commission.

CHAIRMAN McCLURE

Q.2 Earlier this year, in June, this Committee held oversight hearings on implementation of the Public Utility Regulatory Policies Act of 1978. A number of witnesses commented that the Commission's performance in implementing PURPA could be substantially improved.

In particular, FERC has issued regulations that specify certain thermal efficiency standards and operating standards for gas-fired cogeneration units. However, those standards have been criticized as being not stringent enough to justify the high revenues collected from the sale of the electric power generated by those units.

As Chairman, will you initiate a Commission review of the current set of Commission standards to determine if there is a need for a new rulemaking proceeding that would establish more stringent standards?

A.2 Based on the testimony during the PURPA oversight hearings in June, I believe further inquiry into whether the current Commission standards require modification is warranted. In light of the criticism at the Congressional hearing regarding the level of revenues collected by gas-fired cogeneration units under the existing standards, I would undertake a review of this issue to determine if revisions to the Commission's regulations should be made. I believe the Commission should always seek to update its regulations to reflect changing economic circumstances in energy markets, as long as any updating is consistent with the mandates established by Congress under the authorizing legislation, in this case, PURPA.

CHAIRMAN McCLURE

Q.3 At the hearing, there were complaints that FERC's collection of data on qualifying facilities was deficient. Information is available on applications for qualifying facilities, but FERC has inadequate data on the facilities that are actually operating.

Would you be willing to review the Commission's data collection procedures and make a decision on the need for improvements?

A.3 Yes, if confirmed, I will review the Commission's data collection procedures to determine whether improvements are warranted.

In 1985, the Commission initiated a survey of qualifying facilities with the purpose of improving its data on these facilities. FERC Form 579, a printed questionnaire, was sent to the approximately 940 facilities that filed applications with the Commission from March, 1980 until December 31, 1985. Responses to the survey were voluntary.

Each Form 579 was preprinted with the information contained in the Commission's files regarding the particular facility. The questionnaire asked each facility (1) to state the status of its project; (2) to verify the information printed on the questionnaire; (3) to give an opinion about the problems encountered with the facility, such as compliance with environmental standards, Fuel Use Act requirements, etc., and to rank the problems indicated; and (4) to provide additional information, such as the facility's annual generation and whether the facility is selling or using the power produced.

State and regulatory authorities were also requested to submit information from their records. A major objective in querying the State and regulatory authorities was to ascertain how many projects that are currently operating have filed applications with the Commission.

CHAIRMAN McCLURE

Q.4 Also, several witnesses at the hearing acknowledged that there were "rough spots" and problems in the implementation of PURPA at the State level, but they contended that those problems were self-correcting. For example, some States initially set full avoided cost rates at a very high level, and then eventually reduced them.

(a) Do you agree that it is now time for a full-scale Commission review of how the States are implementing PURPA?

(b) For those States with excess generating capacity, would you support a Commission evaluation of how those States calculate the capacity component of the full avoided cost rates?

A.4 (a) Whether the Commission should review how all states implement PURPA raises several procedural questions that require careful consideration. For example, whether PURPA implementation problems are of a magnitude requiring a full-scale review or whether they can be addressed on a state-specific basis is a question that needs to be answered. In addition, if a review is needed, should such a review only include state commissions or should the review also include all non-regulated utilities subject to the PURPA rules? Based on the answers to these questions, I would decide whether it is now time for a full-scale review of state implementation of PURPA.

(b) The Commission has the authority to inquire into whether a state commission has correctly implemented the Commission's rules, including those relating to avoided costs. However, state forums also have jurisdiction to address such questions. With deference to Federal/state relations, the Commission's policy has been that such issues should be pursued initially in state forums. As Chairman, I would evaluate whether the Commission should take a more direct role in state implementation of the Commission's PURPA regulations, including an evaluation of how states calculate full-avoided cost rates.

SENATOR DOMENICI

Q. The Federal Energy Regulatory Commission has, in the past, approved rate structures for imported natural gas which are significantly different than rate structures approved for domestic gas sales. In particular, the Commission has approved the inclusion of certain commodity costs in the demand costs for Canadian gas imported for sale in California. Competing domestic gas thus appears to cost more because the demand side of the rate structure does not "hide" some of the cost. In California, where the Public Utility Commission rules for gas purchasing, focus on the commodity price, domestic gas enters into the sales competition with "one hand tied behind its' back." The Canadian gas, even if it were the same real cost, would appear cheaper and therefore be the gas of choice under state regulatory guidelines. In your opinion, should the FERC approve rate structures which set up this kind of unfair competition? Would you, as a Commissioner, try to create rate structures which permit different marketers of natural gas to compete fairly? Under what circumstances would there ever be a justification for permitting different rate structures?

A. An issue currently pending before the Commission in several pending proceedings is the applicability of the Commission's as-billed principle to natural gas imports. Under that principle, pipeline supplier rates are automatically applied as-billed to a pipeline company's two-part rates. In the usual case, the Commission has also approved the upstream pipeline supplier's rate design. However, this is not the case with respect to the charges of an upstream Canadian gas supplier, whose two-part rates are approved in Canada by the Minister of Energy, Mines, and Resources upon the recommendation of the National Energy Board (NEB) and in the United States by the Economic Regulatory Administration (ERA).

SENATOR DOMENICI

A. - continued

Opponents of the as-billed treatment for Canadian gas allege that Canadian suppliers are placing traditional commodity costs, including producer-related costs, into the demand charge to keep their gas competitive at a lower commodity charge. In this way, the opponents allege that the Canadian suppliers' two-part rates are designed to make otherwise unmarketable Canadian gas marketable, and thus create a competitive disadvantage to American producers and pipeline suppliers.

Although I cannot address the merits of these specific allegations while these proceedings are pending before the Commission, I consider the allegations extremely serious and worthy of expedited review and decision by the Commission. The FERC should not approve rate structures which establish unfair competitive advantages for one set of producers over another; and as Commissioner, I pledge to seek rate structures which permit domestic and Canadian gas marketers to compete fairly, especially in light of the Commission's obligation to assure overall rates that provide long-term reliable supplies of gas to U. S. consumers.

Until the pending proceedings are before me as Commissioner for decision, I cannot determine whether there would ever be any circumstances justifying any different rate structures for Canadian and domestic gas. However, in general, one of my highest priorities if confirmed will be to assure that FERC regulation seeks to restore the American drilling industry and domestic gas producers to a level of health and stability in order to explore and develop the new domestic gas reserves needed by American consumers and the economy over the long-run.

SENATOR DOMENICI

Q. The FERC charges Raton Transmission Company the same high filing fees as it charges larger pipelines such as El Paso and Tennessee Gas Transmission Company, even though Raton is a small pipeline of only 20 miles length servicing only 4,000 customers. Will you, as Chairman, review the justification for this filing fee and do anything necessary to remedy this unfair situation?

A. Because of your concern over the potentially unfair application of the Commission's filing fees to small entities, as Chairman, I intend to review the methodology of the standardized filing fees, the ability of the Commission to grant exceptions to the filing fees in order to prevent inequitable results, and the Commission's practices in granting such exceptions, especially in regard to small entities. I will be happy to report to you the results of my review and any recommendations for modifying the fee structure.

Q.1 As I understand it, there have been no other applications under this expedited process [optional procedures of Order No. 436]. Is that correct? Is Iroquois the only one?

A.1 There have been eight applications filed under the optional procedures established in Order No. 436 and promulgated in sections 157.100 - 157.106 of the Commission's regulations. These include applications filed by Erie Pipeline System (CP86-329-000), Transco Gas Services Inc. (CP86-455-000), Transylvania Gas Pipeline (CP86-333-000), Iroquois Gas Transmission System (CP86-523-000), Tennessee Gas Pipeline Company (CP86-465-000), Moraine Pipeline Company (CP86-494-000), Washtenaw Pipeline Company (CP86-444-000) and Shell Gas Pipeline Company (CP86-642-000). With the exception of Washtenaw, the Commission has not acted on these applications to date. Recently, the Commission dismissed Washtenaw's application on jurisdictional grounds.

SENATOR MURKOUSKI

Q. Two projects are underway to bring about the transportation infrastructure necessary to deliver North Slope natural gas to markets. One of these, the Trans-Alaska Gas System, proposes export to the Pacific Basin. The TAGS sponsors now have pending before the Department of the Interior an application for a right-of-way, and environmental studies are being conducted in conjunction with this application.

A. In his confirmation hearings, your predecessor is quoted as being advised by the FERC General Counsel that FERC has no jurisdicton to approve exports of natural gas; those approvals being reserved for the President and Economic Regulatory Administration. Do you agree with this position?

B. You are known to support a free market and it is said you advocate eliminating overlapping jurisdiction. In your opinion, is it necessary for the FERC to exercise any direct involvement in the TAGS export project?

A. Pursuant to Department of Energy Delegation Order No. 0204-111, effective February 23, 1984 (49 Federal Register 6684), the Secretary of Energy delegated to the Administrator of the Department's Economic Regulatory Administration the authority under section 3 of the Natural Gas Act, 15 U.S.C. § 717(b), "to regulate...exports of natural gas." In Delegation Order No. 0204-112 (paragraph (a)), issued on the same date, the Secretary delegated to the Federal Energy Regulatory Commission the authority to approve or disapprove "the place of...exit for exports" of natural gas whenever the export involves "the construction of new domestic facilities" (although reserving in the first instance the authority of the Administrator to disapprove any such place of export). The delegation orders also reserve to the Commission the authority to approve or disapprove "the construction and operation of particular facilities" necessary to implement

SENATOR MURKOWSKI

A. (continued)

the export, to the extent that such construction and operation falls within the jurisdictional ambit of the Natural Gas Act.

Thus, I agree that the Commission does not have jurisdiction to approve or disapprove the export of natural gas.

In light of the allocation of authority in the Secretary's delegation orders quoted above, the Commission does have a statutory obligation (under section 3 of the Natural Gas Act), to approve or disapprove (to the extent not prevously disapproved by the Administrator) the place of export of natural gas. In exercising this function, the Commission would also be required to perform whatever environmental review functions are mandated by the National Environmental Policy Act of 1969, as a prerequisite to approving an export site.

I would also note that the specific nature of the Trans-Alaska Gas System (TAGS) has evolved over time, and may continue to change in the future, as the project sponsors refine their proposal in light of market conditions, engineering studies, and financial projections, etc. Because the Commission has no application or request for declaratory order before it which raises the question of the Commission's jurisdiction over the TAGS project, I do not have an opinion at this time on whether it is necessary for the FERC to exercise any direct involvement in the project. If confirmed as a member of the Commission and presented with such a question, I would seek an expeditious resolution of this question based on both the need to avoid overlapping jurisdiction and the need for the Commission to comply with the statutory requirements mandated by Congress.

SENATOR JOHNSTON

Q.1 FERC issued Order no. 436 eleven months ago today. It was supposed to make dramatic changes in the natural gas transportation industry. Instead, essentially all that has resulted so far has been a period of uncertainty while the affected parties await FERC implementation decisions. The Commission has nearly fifty Order No. 436 filings pending and settlement negotiations ongoing which involve the order. According to trade press reports, the sitting Commissioners are deadlocked on how to handle controversial implementation issued. Your prepared statement indicates you hope to implement Order No. 436 "predictably and consistently" and that you believe in "timely decision-making and efficient management".

What do you intend to do about the Order No. 436 situation?

How soon do you expect to resolve the Order No. 436 backlog?

A.1 If confirmed, one of my highest priorities in the natural gas area will be to complete the Commission's implementation of Order No. 436. Until I am confirmed and can fully evaluate the status of all pending Order No. 436 filings and the available Commission resources to process those filings, I cannot predict when the Commission could expect to resolve the Order No. 436 backlog. However, I note that in orders issued prior to July 1, 1986, the Commission granted waivers of certain Order No. 436 conditions, which waivers permitted eleven pipelines to continue to transport under Order No. 436 on an interim basis until the earlier of January 1, 1987, or thirty days after the issuance an order on the merits of the pipelines' pending Order No. 436 settlements or blanket certificate applications. To the extent practicable, I would seek to assure Commission action on all major pipeline Order No. 436 filings no later than January 1, 1987, the latest date the existing waivers expire.

SENATOR JOHNSTON

Q.2 During its recent PURPA hearing, the Committee heard significant testimony concerning so-called "PURPA machines" -- oil or natural gas-fired cogeneration facilities that satisfy FERC's efficiency standards but that produce more electricity and burn more fuel with less efficiency than would be the case if the facilities were sized to meet their thermal needs. Given the fact that oil and natural gas are ultimately scarce resources, wouldn't national energy policy be better served by requiring the electrical capacity of an oil or gas-fired qualifying cogeneration facility to be a function of the thermal need to be served?

A.2 Generally, the electric capacity of a cogeneration facility is a function of the thermal need since production of electricity in a cogeneration facility requires the use of thermal energy. However, some cogeneration facilities are apparently designed to maximize electric generation rather than to match electric generation with the non-electric thermal need.

The purpose of section 210 of PURPA is to encourage cogeneration and small power production facilities. Congress decided to encourage the development of cogeneration facilities because they use fuel more efficiently, by using heat sequentially, than would a noncogenerating electric generating plant. By requiring facilities to meet more efficiently the non-electric generating thermal need, fuel would be used more efficiently in a particular facility. However, such a requirement may make some proposed facilities uneconomic. Thus, maximizing fuel efficiency might very well result in a decrease in the incentive to build cogeneration facilities.

SENATOR JOHNSTON

A.2 (continued) - 2 -

The Commission's rules, at 18 C.F.R. § 292.205(a), require that at least five percent of the total output of all topping-cycle cogeneration facilities be applied to the non-electrical thermal energy use ("five percent operating standard"). This does assure at least a minimum production of thermal energy. However, in light of criticism regarding the efficiency of gas-fired cogeneration units, if confirmed, I would undertake a review to determine if revisions to the Commission's operating and efficiency standards should be made.

SENATOR JOHNSTON

Q.3 Do you have particular views on how electric wholesale and transmission service should be priced? Specifically, how do you view the embedded vs. marginal cost pricing debate?

A.3 In general, where wholesale markets are generally competitive, I am inclined to allow some degree of pricing flexibility consistent with law, in order to reflect market forces. But where such markets are not competitive, the Commission must regulate prices to protect consumers and ensure that electricity is produced adequately and efficiently.

The embedded versus marginal cost pricing debate raises fundamental questions regarding the goals and practicality of electric rate regulation, particularly the accuracy ot price signals conveyed by the traditional embedded cost pricing approach. I intend to explore these fundamental questions in more depth in connection with the Commission's Notice of Inquiry on this subject.

SENATOR JOHNSTON

Q.4 What are your views on electric transmission access? Do you think that the authority for FERC to order wheeling under sections 211 and 212 of the Federal Power Act adequately promotes competition in the electric industry? Do these provisions sufficiently protect the interests of utilities who own transmission capacity and the interests of their customers?

A.4 Transmission access is an extremely complex issue that will require further investigation before I can offer specific views. I understand the importance of transmission access to the development of competitive electricity markets. But I also realize that access raises potential technical problems on transmission systems and concerns about who pays for idle capacity built for customers who subsequently go elsewhere for their power. Moreover, the access issue appears to be tied to questions relating to a utility's obligation to serve and the reciprocal customer obligation to purchase that has characterized the industry to date. These concerns must be addressed in any Commission review of the transmission access issue.

The wheeling authority under sections 211 and 212 of the Federal Power Act require that any wheeling order must reasonably preserve existing competitive relationships. Whether this statutory framework adequately promotes competition in the electric industry is a question I would seek to answer on both a case-specific and generic basis as a Commissioner.

The wheeling authority in Sections 211 and 212 does seem to protect utilities with transmission capacity and their customers against the concerns usually raised about access. For example, before issuing a wheeling order, the Commission must find that it would result in no uncompensated loss, undue burden or reliability impairment. Whether this protection is sufficient will require further study.

SENATOR JOHNSTON
ADDITIONAL QUESTION

Q.1 The Federal Power Act as amended by PURPA authorizes the FERC to order wheeling only if the Commission "determines that such an order would reasonably preserve existing competitive relationships." Do you hava a view on the circumstances, given this constraint, in which the Commission would be likely to issue a wheeling order?

A.1 The circumstances under which the Commission could order wheeling are extremely limited. It is possible that competitive relationships might not be disturbed in a case where power is wheeled completely through a utility's system from an adjacent utility to an adjacent utility. Neither seller nor buyer would be located within the wheeling utility's service area. Whether this would disturb competitive relationships would depend on whether the wheeling utility's role as a buyer or seller with the other two utilities would be affected.

SENATOR JOHNSTON
ADDITIONAL QUESTION

Q.3 It appears that future growth in economy transactions and opportunities for competitive power markets may be restricted because of lack of transmission facilities. What should be FERC's role in ensuring that adequate transmission facilities are planned and constructed? More specifically, if joint ownership or other long-term arrangements for sharing transmission facilities are proposed, will FERC's regulation of the contractual arrangements ensure that the needs of all potential users are considered?

A.3 The FERC has no direct regulatory authority over the planning or construction of transmission facilities. State regulatory commissions as well as other state agencies are responsible for certificating new transmission investments. The FERC can, however, provide incentives for efficient transmission investments in an indirect manner -- through its policies on transmission pricing.

The Notice of Inquiry focussed on appropriate pricing policies for transmission. The objective of FERC's policy should be to promote efficient use of existing facilities as well as maximize incentives for construction of new transmission facilities that will lead to least cost electricity production.

On the specific issue of joint ownership, I would note that FERC has no direct authority to compel transmission owners to transmit power for others. However, FERC's review of transmission arrangements and rates should ensure that the needs of potential users of jurisdictional transmission facilities will be considered.

SENATOR JOHNSTON
ADDITIONAL QUESTION

Q.4 It access between buyers and sellers is prerequisite to competition in an industry, how do you view electric utility competition? How open is the electric transmission grid to new users.

A.4 The degree of competition in electricity trade varies by region, by service type and by types of entity. In some regions, transactions among the larger utilities seem to occur in reasonably competitive markets. While these markets seem competitive, there are complaints that they are not as competitive as they could be because independent generators and large customers such as distributors and industrial firms may be excluded from the market because they cannot get access to the transmission grid.

Energy markets ought to be as efficient as possible. Where possible I support increased competition as an effective vehicle to encourage efficiency.

SENATOR JOHNSTON
ADDITIONAL QUESTION

Q.5 Those of us concerned with electric power issues have been waiting for more than a year for the Commission to decide how to use the responses to its Notice of Inquiry in electric rate matters. What are your views on how the Commission should proceed?

A.5 The issues raised in the two phases of the Notice of Inquiry (NOI) go to the heart of the Commission's regulation of the electric industry. These issues are particularly important at this time because of increasing competition as well as the many structural changes which are occurring in the industry.

One of my top priorities will be to decide how to follow up on the NOI. As I indicated in my statement, I am concerned about the time value of money, and that concern is certainly relevant in this case. Some 250 individual written comments were received from all segments of the industry in response to the questions raised in the NOI. Once I have had a chance to familiarize myself with the comments and discuss these issues with my fellow Commissioners, I would then make a decision on how to proceed in a manner that is consistent with the public interest.

SENATOR JOHNSTON
ADDITIONAL QUESTION

Q.6 More than six years have passed since the promulgation of FERC's rules covering the cogeneration and small power production provisions of PURPA. What is your view on the effectiveness of these regulations? What has been the impact on energy costs of industries that have employed cogeneration? What has been the overall impact on residential and commercial ratepayers? Are there indications that the regulations should be amended?

A.6 Section 210 of PURPA charged the Commission with the task of promulgating rules that would encourage cogeneration and small power production. The Commission's rules have encouraged these technologies, although many other factors have played a role. The rules require electric utilities to interconnect with qualifying facilities (QFs), to offer to purchase energy and capacity from QFs, and to sell electricity to QFs at nondiscriminatory rates. The rules also exempt QFs (with some limitations) from much of the burden of electric utility regulation under the Federal Power Act and the Public Utility Holding Company Act.

The number of QFs making filings at the Commission has increased every year since the beginning of the program. Data compiled by the Commission staff show a corresponding increase in aggregate QF capacity.

	Number of Facilities	Electrical Capacity (MW)*
FY 1980	29	704
FY 1981	68	1,319
FY 1982	208	4,245
FY 1983	422	5,687
FY 1984	479	5,888
FY 1985	708	11,266
First half, FY 1986	597	10,221

* Capacity figures include revisions to previously qualified facilities.

SENATOR JOHNSTON
ADDITIONAL QUESTION

A.6 (continued) - 2 -

Of course, not all QF filings represent actual capacity. Many proposed facilities are never built. The Commission is currently conducting a study to ascertain how many QFs are operating or are under construction. This survey effort has also asked QF owners to identify, and rank in order of importance, the problems that have been encountered in getting a project going.

In a broad overview, I believe that the rules have encouraged the construction of new electrical capacity. The rules have also encouraged new technologies. In particular, fluidized bed combustors, solid waste fired plants, and certain geothermal and wind power technologies have been stimulated by the Commission's rules. Anecdotal evidence suggests that cogeneration projects in some industries have lowered production costs. The overall impact on oil and gas consumption has been mixed. Very few cogeneration facilities burn oil. On the other hand, 41 percent of all QF capacity is gas-fired.

On the specific question of energy costs to industry, I am unaware of any studies that could provide a definite answer. Various studies by the DOE (Office of Industrial Programs) have looked at case histories of individual facilities. Other studies have made projections for various industry groups based upon estimates of cogeneration market penetration. The best data on this subject will

SENATOR JOHNSTON
ADDITIONAL QUESTION

A.6 (continued) - 3 -

probably be provided by the Manufacturing Energy Consumption Survey being planned by the EIA (the EIA-846). The FERC PURPA implementation study (the FERC-579, discussed above) does not ask questions about energy costs.

On the specific question of ratepayer impacts, most of the complaints about adverse impacts have arisen in some states. In most states, QFs negotiate with utilities on the rates for sales of power into the grid. It appears that a number of QFs agree to rate somewhat below full avoided cost in order to secure a long-term contract. Such contracts are considered necessary for financing large QF projects.

On the final question of whether the Commission's PURPA rules should be amended, a number of questions have been raised during the past two years. I plan to look into the matter very closely.

SENATOR BUMPERS

Q.1 Natural gas pipelines--At least 16 major pipelines have filed with the Commission to become open access transporters under FERC Order 436. When do you anticipate final Commission action on those filings? As Chairman, would you place a priority on the implementation of Order 436 over other pipeline matters in terms of allocating staff and Commission time? Since the pipelines are responding to a Commission initiative, isn't prompt action on Order 436 filings reasonable to expect?

A.1 If confirmed, one of my highest priorities in the natural gas area will be to complete the Commission's implementation of Order No. 436. Until I am confirmed and can fully evaluate the status of all pending Order No. 436 filings and the available Commission resources to process those filings, I cannot predict when the Commission could expect to resolve the Order No. 436 backlog. However, I note that in orders issued prior to July 1, 1986, the Commission granted waivers of certain Order No. 436 conditions, which waivers permitted eleven pipelines to continue to transport under Order No. 436 on an interim basis until the earlier of January 1, 1987, or thirty days after the issuance of an order on the merits of the pipelines' pending Order No. 436 settlements or blanket certificate applications. To the extent practicable, I would seek to assure Commission action on all major pipeline Order No. 436 filings no later than January 1, 1987, the latest date the existing waivers expire.

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SENATOR BUMPERS

Q.2 Joint Boards--Sec. 209 of the Federal Power Act authorizes the Commission to refer any matter arising in the administration of its authority to regulate electricity in interstate commerce to a Joint Board composed of members from the affected states and the FERC. Similar joint board proceedings have been used successfully by the FCC. While the FERC retains final decision-making power, joint boards would appear to allow for a significantly greater awareness of major state concerns at the federal level. In particular, joint boards would appear to be appropriate in situations involving public utility holding companies and power pooling arrangements. What are your views on the use of joint board proceedings?

A.2 I support the idea of parties with complementary jurisdictional responsibilities working toward a mutually acceptable solution, if it can be accomplished without significantly increasing administrative or regulatory burdens.

The National Association of Regulatory Utilities Commissioners (NARUC) has identified certain deficiencies in current Section 209 of the Federal Power Act and Section 17 of the Natural Gas Act regarding membership requirements on joint boards, and adopted a resolution at their last Executive Committee meeting endorsing a legislative change. I expect to receive a legal analysis of that language from the Commission staff following my confirmation and I look forward to discussing the states' concerns with the NARUC leadership.

SENATOR BUMPERS

Q.3 Abandoned or cancelled plants -- For the past several years, the FERC has been more generous to utilities than most state commissions in terms of the recovery of costs for abandoned or cancelled plants. For example, most states and the FERC have followed the practice of disallowing a return on sunk cost, but allowing a recovery of prudently incurred costs through amortization over a period of years. FERC however, has allowed amortization periods of five to ten years, while the state commissions have allowed amortization over ten years or more. Now in the NEPCO proceeding (currently before an Administrative Law Judge) the FERC has before it a request to further liberalize its policy on cost recovery to the detriment of ratepayers by allowing a rate of return on a utility's investment in a cancelled plant. What are your views on the current FERC policy, and on the proposed policy change?

A.3 In the electric ratemaking area, the Commission's policy has been to allow public utilities to recover prudently incurred construction costs associated with cancelled or abandoned plants. The policy has been to allow amortization of losses associated with a cancelled project, but not to allow the unamortized portion of the write-off to be included in rate base. This has resulted in a sharing of the costs of cancelled plant between ratepayers and the utility since the utility is allowed a return of, but not on, capital invested in the cancelled project.

The Commission is reexamining the appropriateness of this cancelled plant policy in its Notice of Inquiry (NOI) into the regulation of electric utilities selling in wholesale markets, 31 FERC ¶ 61,376 (June 28, 1985), as well as in an ongoing New England Power Company (NEP) rate proceeding in Docket Nos. ER85-646 and ER85-647, in which the Commission invited interested persons to participate.

SENATOR BUMPERS

A.3 continued - 2 -

It would appear that the Commission's existing amortization policy has attempted to strike an equitable balance between ratepayers and utility investors. However, with the recent proliferation of expensive cancelled nuclear plants, I believe the current policy should be thoroughly reviewed. I would note that although the Commission in the ongoing NEP proceeding is allowing NEP to show why the ratepayers should bear even more of the risk of cancelled plants, in the NOI the Commission noted its concern that as customers bear a significantly greater amount of risk, then incentives may be reduced for jurisdictional utilities to avoid embarking upon questionable construction projects or to minimize construction costs. I would support a policy which encourages investment and construction necessary to provide reliable and efficient long-term energy supplies, but at the lowest possible rates to consumers. The policy which strikes a proper balance between these goals can best be determined based on the record compiled in the two ongoing Commission proceedings.

SENATOR BUMPERS

Q.4 Prudency reviews -- FERC has also differed from state commissions in the area of prudency reviews -- reviewing costs to determine if they were prudently incurred. FERC has not once disallowed a major cost due to utility imprudence, while state commissions have taken a more active role in prudency determinations. Commentators have suggested that one problem is a lack of adequately trained staff at the federal level to conduct prudency reviews. Another problem suggested is the weakness of the standard itself compared to other tests such as the "used and useful" standard. As Chairman would you devote more staff and training to prudency reviews? What are your views of the comparative merits or demerits of the prudency standard versus the used and useful standard?

A.4 One of the problems associated with prudence reviews at the Federal level is that the Commission has no licensing or siting authority for electric generation construction, and it cannot review prudence of decisions to construct or prudence of specific costs incurred until a jurisdictional utility seeks to include costs in rates. The earliest that this occurs is when a utility seeks to include construction work in progress in rate base. Otherwise, it occurs when construction is completed and the utility seeks to pass through the costs of a completed project to ratepayers, or when a project is cancelled and the jurisdictional company seeks to amortize the losses. It is my understanding that at these points the Commission staff does look at the utility's need for the capacity and planning of the unit involved, including least-cost energy strategies. If there is evidence of imprudence, then prudence becomes an issue at the ensuing hearing. While the Commission has no statutory authority to review construction prudence at an earlier time, it may be that

SENATOR BUMPERS

A.4 continued - 2 -

Commission staff should scrutinize prudence-related issues more thoroughly once construction costs are sought to be included in rates. This is a matter which I would look into as Chairman.

The Commission does not conduct formal prudence audits which review actual cost expenditures and project management. These are extremely costly and time-consuming, and would require special training of personnel to perform them. Whether the Commission should commit the tremendous resources necessary to obtain and train staff and to conduct prudence audits is a decision which should be made only after investigating the effectiveness of such audits in terms of both costs and benefits.

As Chairman, I intend to determine the magnitude of any increase in imprudence allegations made in wholesale rate cases, in order to assure that staff and training are adequate to review such allegations.

In reference to the "used and useful" standard, this standard generally is applied in determining whether a utility should be allowed a rate of return on a particular investment. The Commission's policy has been that a utility is entitled to a return of monies prudently invested in a cancelled plant, but is not entitled to a return on that investment because the property is not "used and useful" in the public service. See New England Power Co., 8 FERC

SENATOR BUMPERS

A.4 continued - 3 -

¶ 61,054 (1979), aff'd sub nom., NEPCO Municipal Rate Committee v. FERC, 668 F.2d 1327 (D.C. Cir. 1981), cert. denied, 457 U.S. 1117 (1982). Thus, it has applied a "used and useful" test when determining whether a utility should earn a return on capital investment, and a prudence standard when determining whether the utility should recover the investment itself. As indicated in my previous answer regarding cancelled or abandoned plants, whether this approach is currently appropriate can best be determined after completion and review of the records in pending Commission proceedings.

SENATOR BUMPERS

Q.5 Suspension of Rate Increases -- Under the Federal Power Act, an electric utility must obtain FERC approval before increasing any rates to customers. The FERC may suspend the effective date of the change for a minimum of one day or a maximum of five months. FERC's standard practice has been to suspend rates for the minimum one day period if the rates will not yield "substantially excessive revenues" even where the Commission's preliminary examination indicates that the rates may be "unjust and unreasonable". A different standard is applied in gas pipeline rate cases where the Commission will suspend a rate believed to be unjust and unreasonable for the maximum period permitted by the statute.

What are your views on: 1) whether it is appropriate to have different suspension policies for gas pipelines than for electric utility cases; 2) whether or not there should be a presumption in favor of wholesale customers when FERC determines the suspension period; and 3) whether it is sound policy for FERC to have an either/or suspension policy, i.e. either one day or five months, rather than a policy that tailors the suspension to the specifics of each case.

A.5 Commission suspension policy for both the gas pipeline and electric utility industries is the same insofar as rates are suspended either for one day or five months in both cases. However, the Commission's criteria for determining the length of the suspension period and other ratemaking practices differ between the two industries. Thus, it may be appropriate to have different suspension practices for gas pipelines than for electric utilities. The criteria for determining the length of the suspension period in the two industries are as follows:

- For gas pipelines it is whether or not the present rates allow the recovery of representative costs during a 12-month historic period prior to the filing plus the last allowed rate of return. If

SENATOR BUMPERS

A.5 continued - 2 -

there is no substantial revenue deficiency, the proposed rates are suspended for five months. If there is a revenue deficiency, a one day suspension is given.

- For electric utilities the suspension period is determined by how close the requested increase based on a future test period is to staff's preliminary estimate of the amount of increase that is justified. If the requested increase does not exceed the staff's revenue estimate by more than 10 percent, a one day suspension is given. If the requested increase exceeds the staff's revenue estimate by more than 10 percent, a five month suspension is given.

Other differences in Commission rate making practices between the two industries relate to:

- the length of time for staff review prior to the suspension date,
- timing of and the time period covered by the test period, and
- whether rates are based on average costs or end-of-period costs for the test period.

The suspension period decision cannot be viewed in isolation. It depends on the nature of rate making practices followed in the industry. For example, different practices in the two industries lead to different incentives for

SENATOR BUMPERS

A.5 continued - 3 -

utilities to ask for excessively high rates in their filing requests. As a result different suspension periods may be appropriate for each industry.

FERC electric rate making practices have a presumption in favor of the wholesale customers in the sense that the utility has the burden of justifying any increase in rates. Within this framework, the length of the suspension period should seek a balance between such objectives as protecting customers from excessive rates and protecting the utility from undue revenue erosion. This balancing precludes a total presumption in favor of the wholesale customer when determining suspension periods.

FERC policy ought to tailor the length of the suspension period to the specifics of each case. Generally, in the past, depending on these specifics, either a one day or five month suspension has been selected. If more than one day is justified, the practice of suspending rates for the maximum five months has been viewed as providing the maximum incentive for utilities to keep rates down.

SENATOR FORD

Q.1 How would you view your role as FERC Chairman? What will be your agenda when you assume this role?

A. I view my role as FERC Chairman primarily to be to carry out my statutory responsibilities consistent with the jurisdiction and authority delegated by Congress to the Commission. Within this delegated authority, the Chairman should assure that the Commission caseload and staff are managed efficiently and that the collegiality and integrity of the Commission's adjudicatory decision-making process are maintained and improved.

The Chairman should emphasize and consider the time value of money in setting the Commission's agenda and managing the caseload. I would favor a good and well-reasoned decision today rather than a perfect decision in the distant future.

If confirmed, I intend to apply timely decision-making and efficient management to key issues currently before the Commission, such as the implementation of Orders No. 436 and 451, the processing of backlogged hydroelectric cases, and the consideration of innovative approaches to the Commission's traditional wholesale electric rate jurisdiction in light of increased competition in interstate transmission and sales of electricity.

Two of my highest priorities as Chairman would include (1) exploring generic rulemakings as a means of setting a policy content within which to decide on a timely basis,

SENATOR FORD

A. - continued

issues before the Commission; and (2) assembling a Commission staff which is professional, experienced, and responsive to change in energy markets.

Finally, in order to assure that my decisions are as informed as possible, I intend to constantly seek out and draw on the expertise and institutional memory of my fellow Commissioners, members of the public and Congress, state and local entities, as well as all segments of the industry, consistent with the law and the Commission's regulations.

SENATOR FORD

Q.2 What industry or company-specific issues are of primary concern to you as the most recently nominated member of FERC?

A.1 Beyond the industry-specific issues listed in my statement submitted to the Committee, I will seek to assure that the Commission's policies keep pace with the competitive changes in energy markets and that the needs of the public and the industry for timely decisions are met. As I indicated in my statement, the Commission should be extremely sensitive to the time value of money in its decision-making.

Q.3 Do you believe that an open and continuous dialogue between the regulators and those being regulated is necessary for effective and well-informed regulation?

A.3 Yes, I consider that an open and informed dialogue between regulators and those being regulated is essential to effective regulation, as long as such a dialogue is consistent with the requirements of due process, the Administrative Procedures Act, and applicable Commission regulations, including applicable ex parte and Sunshine Act restrictions.

SENATOR FORD

Q.4 Do you share Senator Domenici's, Senator McClure's, and my view that the take-or-pay liabilities, which are mounting as a result of FERC Orders 380 and 436, present a potentially enormous problem for our nation's natural gas industry?

Q.5 Do you believe that FERC has the legal authority to deal with the take-or-pay problem?

A.4 I share your concerns that, on some pipeline systems,
A.5 rigidities in existing contracts with producers, including take-or-pay clauses may impede the ability of those pipelines to offer market responsive prices. Until I am confirmed and can evaluate the data available at the Commission, I cannot make any conclusions concerning the magnitude of the problem and its impact on the industry. I also cannot assess whether FERC Order Nos. 380 and 436, as opposed to general competitive pressures in energy markets, are a direct cause of the problem.

I am advised that a substantial question exists concerning whether the Commission has the legal authority to modify or directly deal with take-or-pay clauses in contracts for the sale of natural gas which Congress has removed from the Commission's jurisdiction under section 601 of the Natural Gas Policy Act of 1978. Without the benefit of further legal analysis from Commission staff, I cannot conclude whether the FERC has adequate legal authority to deal with take-or-pay problems.

SENATOR FORD

Q.6. Do you believe the declining rig count is a serious industry problem? If so, what can the government, and specifically the Commission, do to address the problem?

Q.6 To the extent the declining rig count indicates a long-term decline in the ability of our domestic natural gas producers to replace depleted reserves of domestic gas, a long-term supply problem may exist. The Commission has an obligation to adjust its regulations to assure that future supplies are adequate to provide long-term reliable gas service to consumers.

I understand that one of the purposes of Order No. 451 is to assure that wellhead gas prices provide incentives to domestic producers to seek supplies of natural gas in response to market price signals from burner-tip to wellhead. Because Order No. 451 is still pending before the Commission on rehearing, I cannot address it specifically. However, if confirmed, I intend to explore all possible regulatory initiatives which would assure that natural gas shortages do not recur and that future supplies of gas are adequate to meet the long-term needs of consumers.

SENATOR FORD

Q.7 Concerning the bypass issue, how would you reconcile what some people view as the conflicting interests of states to regulate the construction of facilities and flow of gas within their borders and FERC's interest of regulating the interstate movement of gas and construction of facilities to achieve that end?

A.7 To the extent the Congress has delegated authority to the Commission under the Natural Gas Act to regulate the transportation of gas in interstate commerce, including a transaction which results in the "by-pass" of a local distribution company by a pipeline directly serving an end-user, I believe the Commission's existing regulations make available to states and the public sufficient procedural rights, including notice and an opportunity to intervene, in order to resolve any potential conflicting interests between the states and the FERC.

As a general matter, in all Commission proceedings, I intend to consider very seriously all relevant issues raised by state and local governments regarding such potential conflicts.

SENATOR FORD

Q.8 Which of the two concepts, mandatory (common) carriage or voluntary carriage (as intended by Order 436), most appeals to you? Why?

A.8 I do not believe the goals of Order No. 436 and mandatory carriage legislation are mutually exclusive. I support President Reagan's legislation to deregulate all natural gas by a date certain and to provide for mandatory carriage authority, as a comprehensive means of assuring more adequate supplies of natural gas at reasonable cost. If Congress should alter in any way the legislation governing the Commission's authority and responsibility, I would implement that legislation to the best of my ability.

Order No. 436 addresses the access problem within the current statutory context. If confirmed, I intend to support implementation of Order No. 436 and its voluntary open access program consistent with the existing legal and statutory framework delegated to the Commission under the Natural Gas Act and the NGPA.

SENATOR FORD

Q.9 As Chairman of FERC, would you support FERC undertaking an administrative proceeding, such as an NOI, to examine how PURPA implementation has proceeded since 1978, in light of the problems in FERC implementation that came to light in the Congressional oversight hearings this year?

A.9 The successful achievement of the goals of the small power production and cogeneration program has been accompanied by implementation questions which the Commission has largely attempted to deal with in the context of individual qualifying facility applications. In an attempt to improve the available data on this program, the Commission is conducting a survey of qualifying facilities. The results of this survey and the information provided in the Congressional oversight hearings will assist me in evaluating how the Commission can most effectively discharge its PURPA responsibilities.

SENATOR FORD

Q.10 From your own knowledge of DOE studies which suggest that this country may be facing a potentially serious electrical supply adequacy problem in the 1990's, would you agree that it is important for FERC to work with DOE, the states, the industry, and all other interested parties to identify the dimensions of that threat more clearly and sooner and to identify that list of impediments that must be overcome to ensure that sufficient supplies of economical power supplies are in place to meet whatever our future demands may be?

A.10 Electricity supply is of critical importance to U.S. society and becomes more so almost every day. Industrial processes, administrative functions, medical technology and even leisure activities are turning to electronic technologies.

I wholeheartedly agree that the Commission should work with DOE, the states, the industry and any other interested party to determine the extent of any potential capacity shortage. I would be especially interested in determining and removing any impediments that FERC policies pose to an adequate and efficient power supply. I recognize, of course, that these consultations can take place only to the extent that they are not prohibited by the relevant statutes.

SENATOR METZENBAUM

Q.A.1. Do wholesale power markets operate competitively?

A.A.1. In many regions, the various markets for coordination services seem to be competitive, at least for the major utilities. But the markets for requirements service to distributors is mostly characterized by monopoly, very much like retail service.

Q.A.2. If yes, why -- i.e., what evidence to you have?

A.A.2. My understanding that some wholesale coordination markets may be more or less competitive is based on two pieces of information. First, many of the NOI comments apparently held that coordination markets are competitive, at least for the major utilities. These firms own substantial amounts of generation and, more important, transmission capacity. Most of them are interconnected with several other utilities and seem to have adequate transmission arrangements with each other. In general, the major utilities apparently are able to buy and sell coordination power with at least several potential partners.

And second, I understand that many utilities have recently been cutting their coordination prices in order to make or retain sales. This is the kind of behavior that may be characteristic of a competitive market.

However, I do not believe this evidence is conclusive, and I would expect to review this question much more closely as a member of the Commission.

SENATOR METZENBAUM

Q.A.3. If yes, how do you explain the plethora of impediments faced by public power systems.

A.A.3. Wholesale coordination markets may be subject to competitive pressures among the major utilities. This is not to say, however, that those markets are as competitive as they could be.

In their NOI comments, municipal and cooperative distributors, industrial customers and cogenerators contend that they have little or no transmission access. To the extent this is true, their participation in coordination markets is restricted and they cannot independently secure least-cost power supplies or freely market their own power. Therefore, the competitive pressures for productive efficiency would be somewhat reduced for the existing coordination market participants.

SENATOR METZENBAUM

Q.A.4. If no, what actions have to be taken by the FERC or the Congress to make this market competitive?

A.A.4. I cannot recommend any specific action until I have systematically reviewed the NOI comments and and other data. I do not believe that competition can be examined without also looking at the questions of utility obligation to serve, transmission access, and bulk power pricing under FERC control and beyond FERC control. A comprehensive approach may be needed that looks at all of these elements if the Commission seeks to create a uniform regulatory policy on competition in electricity markets.

Q.B.1. Do you make a distinction between marginal and market cost pricing?

A.B.1. In some instances, there is a difference between marginal and market cost pricing.

SENATOR METZENBAUM

Q.B.2. If yes, what is it?

A.B.2. Marginal cost pricing refers to setting prices at the cost incurred to produce an additional increment of a product. Market pricing refers to setting prices at a level that clears the market. That is, market prices are those that induce sellers to offer to sell the same amount of a product as customers want to buy.

In competitive markets, market prices generally tend toward the producers' marginal costs. Whenever market prices temporarily exceed marginal costs, producers can increase their individual profits by expanding production, since the price received for the production will exceed the extra production costs. As production increases, market prices will fall until further production is no longer profitable, i.e. until prices equal marginal costs. Of course, the resulting price decrease may reduce total industry profits. But an individual competitive firm is powerless to prevent it, since the firm cannot control the production decisions of others in the market.

By contrast, in monopolistic markets, individual firms with monopoly power can affect the market price. As a result, it is often profitable for the firm to restrict production, in order to keep the market price high. In these cases, market prices can exceed marginal costs.

SENATOR METZENBAUM

Q.B.3. Are market prices sometimes the same as monopoly prices?

A.B.3. Market prices can be the same as monopoly prices in markets where firms have substantial monopoly power, for reasons explained in response to the previous question. In competitive markets, market prices are not monopoly prices. In this latter case, competitive pressures keep market prices below monopoly prices.

Q.B.4. Are wholesale power markets sufficiently competitive, as they currently exist, to relax FERC regulation over rates by allowing wholesale prices to reach market price?

A.B.4. As explained in my answer to Q.A.2., many of the NOI comments apparently held that wholesale coordination markets are competitive, at least for the major utilities. However, I do not believe this evidence is conclusive, and I would expect to review this question much more closely before determining whether to revise current FERC regulation of wholesale rates.

SENATOR METZENBAUM

C. INDUSTRY PROFITS

Q.C.1. Are the profits of investor owned utilities today, and have they been in recent years, adequate, too high or too low?

A.C.1. The profits of investor owned electric utilities in recent years appear to have shown improvement over previous years. This is evidenced by the fact that in the past two years, the majority of industry bond upgrades have been electric utility companies. The industry's credit quality now appears to have stabilized at a level moderately higher relative to the past. Whether this is adequate, too high, or too low can only be determined on a case-specific basis, rather than industry-wide basis.

Q.C.2. Why do you believe that the profits of investor-owned utilities today, and in recent years, have been adequate, too high or too low? By what standards?

A.C.2. In recent years financial measurements used by investors to evaluate the financial conditions of an electric utility company have strengthened. These financial ratios are greatly dependent on the profitability or growth in earnings per share of a company. Tables 1 and 2 show selected financial variables of the electric utility industry. However, these standards do not indicate whether profits of investor-owned utilities are adequate or not. Such an indication can only be made on a case-specific basis.

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Table 1

Electric Performance and Outlook

Year	Kw of Sales Growth (%)	Annual Rate Relief Effective[1] % of Revenues	$ Million	Growth (%)	Rate On Common Equity (%)
1980	2.4	5.7	4.390	2.0	11.7
1981	0.9	7.8	6.782	8.7	12.9
1982	-2.3	8.4	7.907	7.8	13.6
1983	2.9	7.1	7.092	6.9	14.9
1984	5.2	4.8	5.395	5.7	14.9
1985	1.8	3.8	4.172	-0.5	14.5
1986 E	1.5	3.6	4.700	3.0	14.1
1987 E	3.5	4.0	5.000	3.5	14.2
75-80[2]	3.8	5.4	3.200	3.2	11.5
80-85[2]	2.1	6.4	6.255	5.8	14.0
85-90[2]	3.5	3.5	4.100	3.8	14.2

[1]Trailing 12 months

[2]Average annual rate

Table 2

SELECTED FINANCIAL INDICATORS

Year	Average Common Equity Ratio %	After Tax Total Charges Coverage	Pre-Tax Interest Coverage of Long Term Debt	AFUDC % Net Income	Internal Funds % Construction Expenditures
1981	37.2	1.76	3.04	46.7	43.3
1982	38.2	1.84	3.18	46.7	50.0
1983	39.6	2.01	3.54	42.0	69.6
1984	40.9	2.07	3.64	38.5	79.2
1985	41.7	2.08	3.55	34.3	80.5

SENATOR METZENBAUM

Q.C.3. Are the profits on wholesale sales today, and have they been in recent years, adequate, too high or too low?

A.C.3. It is not possible to separate out the wholesale operations from the retail operations and specifically calculate the profits on wholesale sales alone. The problem is further compounded for the FERC because wholesale sales, based on revenues, constitute less than eleven percent of the total revenues of all the major electric utilities that it regulates. At the end of 1984 (the latest year for which data is available) revenues, from sales of electricity by the 179 major electric utilities that reported to the Commission, indicated that sales for resale accounted for $13.1 billion, or 10.36 percent, of total electric revenues of $126.0 billion. As indicated in my previous answers, whether profits on wholesale sales are adequate, too high, or too low can only be determined on a case-specific basis.

SENATOR METZENBAUM

Q.C.4. What do you think about this view of the industry that appeared recently on the editorial page of Business Week (7/14/86, p. 84):

> "The nation's utilities face a problem most people wish they had themselves: more money than they know what to do with."
>
> "So managements are trying to put their excess funds to work with a strategy that many other industries have tried and abandoned: diversification."
>
> "They are now in real estate development, the plumbing-supplies business, cattle raising, insurance, banking, computer software, oil and gas exploration, and horticulture."
>
> "But the wisdom of diversification is not really the issue. What about customers who pay utility bills? They are the source of the excess funds."
>
> "The best way to solve the utilities' excess-cash problem is for regulators to wake up and reduce rates to reflect today's cost of doing business." (Emphasis added.)

I am especially interested in your view on their recommendation to reduce rates.

A.C.4. My comments on Business Week's recommendation are as follows:

The quotes from the editorial state that utilities have "excess" funds and imply that utilities are reaping excess profits. While the cash generated by utilities has increased dramatically in recent years, this may be the result of the completion of construction programs rather than excess profits. For years, Utilities may have had to continually obtain external financing to pay for their construction of new facilities because internally generated cash was not sufficient.

SENATOR METZENBAUM

A.C.4. continued - 2 -

Additionally, cash earnings may have been generated only by those assets included in the rate base. Construction work in progress, which may have been equal to the rate base in some cases, generated only an allowance for funds used during construction (AFUDC), a non-cash addition to earnings. The completion of building programs with little or no new construction being undertaken may have resulted in the addition to rate base of the completed plants and the replacement of the non-cash AFUDC with cash earnings. This may have caused a improvement in the cash flow of utilities even though the industry average earned rate of return on common equity declined in 1984 and again in 1985.

It is difficult to judge the merits of diversification plans undertaken by utilities. It could be argued that utilities should use their currently abundant cash flow to strengthen their balance sheets by retiring high-cost debt rather than refinancing it as most utilities are doing. This could allow utilities to enter any necessary new high construction period with greater financial strength than they had in the last period of large construction programs. If cash generation continues at a high level after balance sheets are sufficiently strengthened, the disposition of this cash could be left to utility managements as long as profits are not excessive.

SENATOR METZENBAUM

A.C.4. continued - 3 -

Utility managements could be allowed to retire debt, purchase their own common stock or diversify if it is in the public interest. The average allowed rate of return in this country has declined from the peak of 15.8% in 1982 to 15.2% in 1985 and 14.25% in the first half of 1986. It appears that regulators have reduced the profit that utilities are allowed to earn. Allowed rates of return may likely continue to decline if capital costs remain at current levels or decline further.

SENATOR MELCHER

Q.1 Please explain your position on the Notice of Inquiry with regard to wheeling and access.

A.1 As you probably know, your questions raise the central issues of the Commission's Notice of Inquiry. Transmission access is an extremely complex issue that will require further investigation before I can offer specific views. I understand the importance of transmission access to efficient trade and to developing competitive electricity markets. But I also realize that access raises potential technical problems on transmission systems and concerns about who is to pay for idle capacity built for customers who get access and go elsewhere for their power. Moreover, the access issue appears to be tied to questions relating to a utility's obligation to serve and the reciprocal customer obligation to purchase that has characterized the industry to date. These concerns must be addressed comprehensively in any Commission review of the transmission access issue.

The wheeling authority in Sections 211 and 212 does seem to adequately protect utilities with transmission capacity and their customers against the concerns usually raised about access. For example, before issuing a wheeling order, the Commission would have to find that it would result in no uncompensated loss, undue burden or reliability impairment. This seems to be adequate protection but more actual case experience is needed for a definitive determination.

SENATOR MELCHER

Q.2 There has been quite a bit of discussion of the "take-or-pay" issue on pipelines. However, the industry and the producers are extremely polarized over the issue. Depending upon who's talking, "take-or-pay" is either a billion dollar problem or it's something which can be worked out in the marketplace. I have two questions:

a. What is your opinion about the take-or-pay issue?

b. What do you think about having FERC conduct an independent review of take-or-pay?

A.2 On some pipeline systems, rigidities in existing contracts with producers, including take-or-pay clauses, may impede the ability of those pipelines to offer market responsive prices. Until I am confirmed and can evaluate the data available at the Commission, I cannot make any conclusions concerning the magnitude of the problem or its impact on the industry. I also cannot assess whether it is necessary for FERC to conduct an independent review of take-or-pay beyond the extensive reviews conducted by the Commission in its Orders No. 436 and 451 proceedings.

SENATOR MELCHER

Q.3a I understand that FERC uses an informal process to decide whether to hold public hearings over a pipeline sale or transfer. I know this because a lot of people in north central Montana are concerned about a proposed sale of the Northern Natural pipeline. I don't know if the sale will cause problems or not, but I do know that the taxpayers, producers and royalty owners are all worried about the sale. My questions: What process do you think FERC should use to decide on holding a public hearing?

A.3a The process for deciding whether to hold a public hearing over a pipeline sale or transfer under the Natural Gas Act appears adequate, as described below.

Before an interstate pipeline can sell facilities that are subject to the jurisdiction of the Commission, it needs approval from the Commission to abandon the facilities. Under section 7(b) of the Natural Gas Act, the Commission is required to hold a hearing before approving such a request. Also, under the Commission's Rules and the Administrative Procedure Act, all such hearings are public, in the sense that notice of the application is published in the Federal Register and members of the public who may be affected by the proposal are invited to intervene and participate in the proceeding.

This does not mean that a formal evidentiary-type hearing is held to consider every application for abandonment. Such proceedings require a substantial commitment of the Commission's resources and are extremely expensive for the Commission, the applicant, and the participating members of the public. Therefore, applications that no one has opposed are usually decided without a formal

SENATOR MELCHER

A.3a continued - 2 -

hearing on the basis of the application, the applicant's answers to interrogatories from the Commission's staff, written exhibits filed in the proceeding, and the written comments of members of the public who participate in the proceeding. Even if the application is opposed, the case may still be decided on this basis if the issues raised are limited to questions of law or policy such that there are no material facts in dispute. Under these circumstances, the courts have found that this process satisfies the Natural Gas Act hearing requirement. (Thus, such procedures are referred to as "statutory hearings".)

The "statutory hearing" process is not appropriate for all cases. The issues raised by the intervenors in a case may not be limited to questions of law or policy. Where the issues raised involve questions of fact that are material to deciding the case, the Commission must set the case for a formal evidentiary hearing. General Motors Corporation v. FERC, 656 F.2d 791 (D.C. Cir. 1979). These hearings involve a trial before an administrative law judge and are subject to the formal procedures specified in the Commission's Rules (18 C.F.R. §§ 385.501-.510) and the Administrative Procedure Act (5 U.S.C. §§ 556 and 557).

SENATOR MELCHER

Q.3b Would you agree that a great deal of public concern over a sale merits a public hearing?

A.3b If the intervenors in this case raise material issues of fact, then the law requires that the case be set for a public, evidentiary hearing. Even if the issues raised are not of the type to mandate an evidentiary hearing, it may be appropriate to hold a public conference so that interested members of the public would have an opportunity to state their views for the record. Whether such a conference is desirable would depend on the circumstances of the case, but I think that the degree of public interest in the case would be a significant factor in such a decision.

QUESTION FROM SENATOR GARN

1) I am very concerned about the failure of the DOE to consider an adequate role that western states like Utah must play in the development of clean coal technology programs. Thankfully, a project in the state of Wyoming was given approval during the Department's recent solicitation. However, this approval of a single western project is symptomatic of a bias which I believe exists today against the west's low-sulfur coal industry.

For example, Utah like other western states has been severely penalized by the percentage reduction requirement of the Clean Air Act even while Congress has directed the Administration to move forward with a major new Clean Coal Demonstration Program which will primarily benefit high sulfur coal states. I do not accept this inequity as a necessary state of affairs.

The federal government should more evenly distribute its coal research monies to states west of the Mississippi River. The research base for western low sulfur coal is centered in Utah at the University of Utah and Brigham Young Universities, a fact which the National Science Foundation has recognized recently by granting a five year award for coal process research and development.

The DOE is currently considering a coal process development project proposed under PRDA DE-RE21-86MC23058 which will significantly increase the marketability and useage of a broad range of U.S. coals including western coals. I strongly support this proposal by Intermountain Fuel Corporation of Salt Lake City.

I would respectfully request Mr. Wampler's views on this project, namely, does he and the department believe this project is technologically feasible?

Is there any reason the project is not technologically feasible? If so, please elaborate on those reasons.

A. Since I am not officially a member of the Fossil Energy staff, I do not have access to proposals which are currently under consideration as part of a competitive procurement. Therefore I'm not able to assess the technological feasibility of the Intermountain Fuel Corporation's proposal. I understand that the Department intends to select projects submitted in response to the Program Research and Development Announcement you referenced by the first week in October.

In general, however, let me state unequivocally that I believe a well-structured federal coal research program must be properly balanced

between all coals, both western and eastern. I recognize the high degree of expertise that exists in Utah, both at the University of Utah and at Brigham Young University. In my review of significant actions taken recently by the Energy Department in the fossil fuels area, I was struck by the fact that in the department's most recent awards of University Coal Research grants, Utah was one of only three states -- out of 21 -- to receive four separate coal research grants, two each for the University of Utah and Brigham Young University. This follows the 1985 University Coal Research awards in which Utah universities received three grants. This, to me, is evidence of the consistently high quality of research done by Utah academic institutions.

I am committed to a sound, well-balanced coal research program. There are significant research opportunities which, if successful, could improve the marketability and use of western, subbituminous coals. Much of the ongoing coal cleaning research, for example, could be equally beneficial in removing particulate-forming mineral matter from high-ash western coals as it is in cleaning sulfur impurities from high-sulfur eastern coals. Many of the emerging hot gas cleanup techniques -- critical for future, high-efficiency gasification-combined cycle concepts -- are geared to removing particulate matter and other impurities that can corrode, erode or form damaging deposits on downstream gas turbine components. This could be extremely important if western coals are to be future candidates for fueling these advanced power generating concepts. And the list could go on.

To the greatest extent possible, I would attempt to ensure that research opportunities like these, that have special relevance to a broad spectrum of coals, are pursued.

September 10, 1986

Honorable James A. McClure
Chairman, Committee on Energy
and Natural Resources
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

Following the September 9, 1986 hearing before the Committee on Energy and Natural Resources on my nomination to the position of Assistant Secretary for Fossil Energy of the Department of Energy, I received questions for the record from Senators Johnston, Melcher, and Bradley. Enclosed please find the responses to those questions.

If you or other members of the Committee should have further questions, I would be available to respond.

Sincerely,

J. Allen Wampler

Enclosures

Questions from Senator Johnston

1) One of the major tasks of the Assistant Secretary for Fossil Energy is to formulate and manage the Federal research, development, and technology demonstration programs in fossil energy technologies at DOE.

What experience do you have in research and development activities in fossil energy?

A. I bring to the Fossil Energy office a diversified background that will permit me to manage the activities of the fossil energy program. My management experience will enable me to formulate and oversee an effective DOE fossil energy R&D program. The Department has some of the finest technical expertise available, both in its headquarters operation and at its field centers. One of the most appealing aspects of the Fossil Energy Assistant Secretary position is the opportunity it presents to work with these highly competent scientists, engineers and program managers in fashioning an effective, efficient R&D program. I will apply my management background in a way that will channel the technical expertise that already exists into productive, beneficial results.

Questions from Senator Johnston

2) If confirmed as Assistant Secretary for Fossil Energy, you will be in charge of managing the Strategic Petroleum Reserve, which is our defense against another oil embargo.

Do you have any experience in the petroleum industry or related matters?

A. I have had some association with petroleum-related matters both in my industrial and academic experience. However, the main strengths I would bring to the position of the Assistant Secretary for Fossil Energy, if confirmed, lie not only in my knowledge and background in the coal industry but my management experience. I am very much aware of the importance of the Strategic Petroleum Reserve. As I said in my opening statement before the Committee, the Reserve is an achievement in which Americans can take particular pride. Thanks largely to the farsighted efforts of several Congresses and Administrations, the Reserve is now large enough to represent a meaningful deterrent against an oil supply disruption. I believe it is critically important that we view the Reserve not only as an insurance policy for today but as an investment in our future security. The continued expansion and fill of the Reserve should be a fundamental component of this nation's energy preparedness program, but it will require a sound management approach to achieve the best balance of energy policy and fiscal responsibility. I believe my management expertise provides me the best opportunity to make a meaningful contribution to the future of this very important program.

Questions from Senator Johnston

3) Secretary Hodel recently announced that the U.S. will probably be importing another million barrels per day of oil a year from now. He said, "We are in very grave danger as a nation of finding ourselves in a very short time back in the grasp of OPEC."

What do you think we ought to be doing about this?

A. Secretary Hodel's warning is one that should be heeded by this nation. We have made excellent progress recently in rebuilding our nation's energy security, particularly through such actions as the Strategic Petroleum Reserve and the decontrol of oil. But we cannot afford to become complacent. We have a unique opportunity in this time of relatively low oil prices to build a strong foundation for the future energy security of this country. I believe there are several approaches we should take -- each part of a general policy framework of diversifying our domestic energy mix.

I believe we need to place a significant emphasis on expanding our capability to use American coal, both for power generation as well as in markets now dominated by oil and gas. The Clean Coal Technology demonstration program is a very important step in that direction. And it is equally important that we maintain an aggressive R&D program to undergird this and other private sector coal initiatives.

We need to remove the final regulatory constraints on the production of natural gas, permitting this domestic fuel source to compete fairly in all domestic markets. We need to continue an aggressive effort to ensure that energy efficiency and conservation remain major factors in energy use decisions. We need to ensure that the nation receives the full benefits of nuclear power and renewable energy sources, both of which have potential that is far from being fully realized.

We need to continue to store oil in our Strategic Petroleum Reserve and encourage other nations to undertake similarly agressive stockpiling programs. We need to examine what additional steps the government might take to keep the American oil and gas industry strong, including the development of new enhanced production concepts.

But perhaps most importantly, we need to use this opportunity to bring the public and private sectors together in a constructive, rather than competitive manner, so that dollars invested in our energy future are dollars that are spent most efficiently and effectively.

Questions from Senator Johnston

4) The Administration just announced that they will solicit bids on domestic oil only for 35,000 barrels per day for the SPR. The accompanying press release implies that this is going to help the domestic oil industry.

This 35,000 barrels per day is less than what we have been buying for the SPR, isn't it? Is buying less oil going to help the oil industry?

Limiting the bids to domestic oil is a new development. The press release said, "Our foremost goal in this solicitation is to obtain the most economical crude oil for the SPR." Do you believe that limiting the universe of sellers is the way to buy the cheapest oil?

A. Since I was not involved in the decisionmaking process that led to the Department's decision to seek domestic oil for the SPR, my knowledge of the policy considerations behind the solicitation is admittedly limited. However, I can provide some general thoughts which, to the best of my knowledge, are consistent with the Department's position in this matter.

First, my understanding is that if the Department uses the current solicitation as its only source of crude oil for the SPR, the 35,000 barrels per day would, in fact, be less than the 50,000 barrels per day currently being purchased for the Reserve. But currently, no domestic oil is being supplied to SPR, and while 35,000 barrels per day is relatively small in comparison to the industry's entire output, the targeted solicitation is one avenue that could provide some assistance to the domestic industry that is not presently in effect.

Moreover, the President has made it clear that the Secretary has the authority to exceed the 35,000 barrel-per-day Congressionally mandated minimum fill rate if economical sources of oil can be found. While the recent solicitation targets domestic oil sources, my understanding is that the Department would welcome long-term contract offers from other, international suppliers if the proposed prices were economical.

The reasons for targeting a solicitation to domestic firms represent an attempt to improve our energy security while, if possible, at the same time aid a very important component of our domestic economy. Term purchases from domestic producers could involve less risk than that associated with spot purchases of foreign oil. A domestic purchase program could also help increase competition in the industry and perhaps keep wells flowing that might otherwise be shut-in. In the long-run these benefits, taken as a whole, could serve the national interest better than a broader competition, open to both international and domestic firms. But that possibility cannot be fully assessed until bids have been opened.

Questions from Senator Johnston

5) In the proposals submitted to DOE in early 1985 under the Clean Coal program, the largest number of proposals were in the categories of flue gas clean-up, fluidized bed combustion and surface coal gasification.

If you were managing a research program, what general criteria would you use for allocating program resources among flue gas clean-up, fluidized bed combustion and surface coal gasification?

A. I would like to review the state-of-development and the ongoing research program in these areas before responding in a more definitive manner, but let me offer some general opinions that would guide my assessment of research priorities.

First, I would want to ensure that the Energy Department is not duplicating the efforts of other federal agencies or ongoing private initiatives. For example, I am aware of several industrial initiatives to install atmospheric fluidized bed combustors in large industrial boiler applications, and my impression is that the industry is well positioned to move this technology into utility-scale application with little, if any, further federal involvement. But clearly, coal-based fluidized bed technology offers much greater potential than just large industrial and utility boiler applications. It could offer a way to re-open smaller boiler and furnace markets to coal, and in allocating funding resources, the need for further federal R&D in this area would be a major factor.

Second, I would want to ensure that industry is receptive to implementing technologies that could emerge from a federal R&D program. Without industry's active involvement in the development process, we run the risk of expending tax dollars on scientifically-brillant concepts that might languish on the shelf because they do not meet the needs of the marketplace. For example, one of the technological advances most needed by the utility industry, in my opinion, is an environmentally-clean coal-burning concept

that can be fabricated and installed in a modular fashion. In this way, utilities could add capacity in smaller increments as demand increases. Given the current uncertainties in future demand, the modular approach offered by advanced pressurized fluidized bed combustion and gasification-combined cycle concepts could be a very cost-effective option for utility planners trying to predict what their construction needs might be in the 1990s and beyond. While certain aspects of these concepts are well within the capability of industry to develop on its own, there may be some critical component requirements -- such as high temperature gas cleaning -- where federal resources might ultimately result in a more cost-effective approach.

Third, I would allocate program resources with a high priority given to fashioning, where possible, workable technological solutions to important social issues. The impact of coal use on our environment is such an issue. Federal and state regulatory policies could play an important role in assigning priorities to technologies now in the R&D pipeline. A more stringent emissions standard for existing power generation plants could impose new technological requirements for retrofittable flue gas scrubbers. New source performance standards for industrial boilers could influence the allocation of R&D resources for applicable technologies.

In short, the changing social and technological environment in which we must carry out an R&D program requires that priorities be reassessed routinely and periodically. One of my major goals, if confirmed, would be to establish a formal review process, involving both the Department's researchers as well as those from industry, that would periodically examine research priorities.

Questions from Senator Johnston

6) How would you ensure that the Clean Coal program allocates appropriate resources to retrofittable emission control technologies as opposed to emission control technologies suitable only for new powerplants? Which do you think is more important in terms of acid rain control?

A) My understanding of the nine initial projects selected by the Department is that five of them are either retrofit demonstrations or have retrofit applications. Given that the program, as authorized by Congress, attempted to attract a much broader slate of technologies and applications, I believe the selections could go a long way toward providing new retrofittable options for power plants. But before one attempts to determine whether there are adequate resources for retrofittable technologies, I believe it is important to look beyond just the Clean Coal program. The private sector is pursuing several applicable initiatives on its own, namely the fluidized bed retrofits being installed by several major utilities. The Environmental Protection Agency also has an active program underway to develop a retrofittable technique for pollution control. Several state agencies are funding, or about to fund, new coal technologies that could add to the available menu of options. And lastly, several new concepts emerging from the Department's research program may offer sufficient technical and economic potential to move into commercial application with little, or no, additional federal involvement. Each of these factors would have to be considered before determining if the Clean Coal funding allocation is adequate for retrofittable emission control technologies.

In answer to the second part of your question, I'm not sure that either the industry or the research community has adequate scientific understanding of the causes, transportation phenomena, or effects of acid rain to rank one approach over the other. Therefore, until that understanding is achieved -- and I am confident that ultimately it will be achieved -- I believe an R&D program should include both new and retrofittable concepts.

Questions from Senator Melcher

1) What do you think about MHD (magnetohydrodynamics)? Would you actively support the program, including adequate funding?

A. My initial introduction to the Department's fossil energy program has shown quite clearly that there is a full spectrum of advanced coal concepts currently proceeding along the development path that offer significant benefits over conventional technologies. I would place MHD in that category.

It is a technology that appears to offer both economic and environmental advantages compared to existing coal-fired power generating equipment, and I was impressed during my initial briefings with the significant progress that has been made by the MHD technical community in linking the key components of the system into workable, power generating units.

I recognize that funding for the MHD program has been an issue in the past because of the expense involved in bringing the technology to the point of commercial acceptance. My understanding is that the Administration's past decisions to request no funds for the program were driven by budgetary considerations rather than any shortcomings of the technology.

I am committed to approaching the MHD program with an open mind. Certainly I would like to see every promising energy concept pursued, but I also recognize that budgetary limitations will play an important role in setting R&D priorities. Within that context, I will be looking for solid indications from the private sector that they are willing to provide cost-sharing commensurate with their view of the potential for this concept. I believe this is consistent with the Congressional Conference Report language accompanying the Department's FY 1986 appropriations bill. If I am confirmed, I have given my commitment to apply the appropriated funds in a way that will sustain the substantial progress made to date in the MHD program. And given that industry is responsive to the cost-sharing requirement and that the program continues to meet its technological milestones, I believe the MHD program as it was outlined in the Department's 1984 plan to Congress can bring the MHD concept to the point where industry would have sufficient information to proceed on its own.

Questions from Senator Melcher

2) Share your thoughts on the future of the Clean Coal technology program. Specifically, how would you handle a second round of competition? Whould you require companies to resubmit proposals or would you choose from existing applications?

A. The Clean Coal Technology program directed by Congress last December and now well underway in the Department represents an excellent melding of government and industry efforts, as I indicated in my prepared testimony. If I am confirmed, one of my highest priorities would be to sustain the pace of this initiative through the signing of cooperative agreements and the start of design, construction and operation of the selected projects. I recognize that funds remain in the Congressionally authorized Clean Coal Technology Reserve Fund for a potential second solicitation, but I believe the most prudent course would be to wait until the current effort is fully implemented before determining what future actions should be. This would also allow us time to consider related efforts by States such as Ohio and Illinois as well as other federal and privately sponsored initiatives.

My understanding is that Congress will likely request that the Department conduct a second survey of the industry, much in the same manner as in 1984 and 1985 when the agency requested Statements of Interest and Informational Proposals. However, this time the Department's request for information would be targeted specifically to retrofittable technologies. If confirmed, I am prepared to carry out the Congressional request in an expeditious manner, and I would expect that the results will also be useful in determining what our future actions should be.

If a second solicitation was to be conducted, however, I would urge that a full and open competition be pursued with existing applicants given the chance to update and resubmit their proposals.

Questions from Senator Melcher

3) What are your thoughts on the "freedom of choice" issue on acid rain? Do you think that a blanket requirement for installing new pollution controls could create problems for utilities in passing the costs to the ratepayers?

A) Certainly if the scientific evidence points to the need for additional acid rain-related pollution controls, I would favor granting utilities the most flexibility in meeting emission targets. This would be important if the potentially large costs of meeting the requirements are to be minimized.

I believe a blanket requirement for installing pollution controls would undoubtedly add to the cost of producing electricity and could compound the financial burden placed on the consumer. It would likely create requirements for rate increases which, because of the need in most cases for approval by state public utility commissions, could create problems for utilities in recovering the costs of pollution control.

Questions from Senator Bradley

1) : How can you justify a policy that leads to decreased purchases for the SPR?

A. As I emphasized in my opening statement, if I am confirmed I will work to ensure that the Strategic Petroleum Reserve is adequate both for today as well as for future generations. I believe this is fundamentally important to our future economic and national security. I am aware of -- and I fully endorse -- the President's recent reaffirmation of a goal of a 750 million barrel Reserve. I would like to see this nation reach that goal as soon as possible, but I also recognize that the rate at which we fill the Reserve must be determined within the context of fiscal responsibility. My understanding is that the President has given Energy Secretary Herrington the authority to increase the fill rate of the Reserve if economical sources of crude oil can be obtained. This seems to me to be the most prudent and flexible approach -- to fill as rapidly as possible within the context of what is affordable.

2) Where does the DOE get the legal authority to prohibit foreign producers from bidding to supply SPR oil?

A. A proper answer to this question would go beyond my current understanding of the legal authorities under which the Strategic Petroleum Reserve program was established and is now being carried out. However, I understand that the Department is preparing a definitive response to your question which will be forwarded to you immediately upon completion.

Questions from Senator Bradley

3. What national benefits are derived from a policy which allows only purchases of domestic crude oil for the SPR?

A. Based on my understanding at this point, I'm not sure that the issue is one of allowing only domestic crude oil for the SPR. I believe the Secretary's principal goal is to obtain the most economical sources of oil for the Reserve, and if in doing so, he can assist the domestic industry, the benefits are compounded.

If such a targeted solicitation is successful, not only would the nation continue to improve its energy security through additions to the SPR, but domestic oil fields that otherwise might be shut in could continue production. Encouraging domestic production in this manner helps diminish our vulnerability to a supply disruption.

There is also the possibility that long-term domestic purchases might entail less risk than that associated with spot purchases of foreign oil. In the long run, the secure nature of these long-term domestic supplies could be in the nation's best interest. Finally, it is possible that a SPR oil solicitation targeted to domestic production could help increase competition within the industry and thereby induce more efficiency and productivity.

4) What types of domestic producers are most likely to gain from prohibition of foreign suppliers?

A. I'm not sure that it is possible to predict with precision what types of domestic suppliers might benefit until responses to the Department's invitation for bids have been examined. In an industry that is critical to our economy and is being threatened by price swings beyond its control, the opportunity to sign long-term, stable contracts for even a relatively small proportion of surplus production will clearly offer some degree of benefit to the industry as a whole.

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